

Fact sheet on Individual Efforts Made towards the Achievement of the Bogor Goals: United States

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| 1. Tariffs | | <i>For the Tariff Section, Status in 2008 (Note: Data for 2009 not available yet)</i> | |
| (1) Import-weighted average of MFN applied tariff | 5.0% | 4.1% | Included U.S. imports for chapters 1-97 HTS8 subheadings where the column 1-general tariff rate applies; Virgin Island imports not included |
| (2) Simple average of MFN applied tariff | 7.3% | 4.8% | |
| (3) Tariff average, based on import tariff revenue | 2.4% | 1.3% | Included all U.S. imports for chapters 1-97 HTS8 subheadings, except Virgin Island imports. |
| (4) Zero tariff lines as a percentage of all tariff lines | 17.8% | 35.7% | |
| (5) Zero tariff imports as a percentage of all imports | 49.1% | 69.0% | |
| (6) Standard deviation for applied tariff | 19.1% | 11.7% | Used chapters 1-97 HTS8 subheadings. Converted specific and compound rates to ad valorem equivalents (AVEs) using duties collected divided by customs value. For subheadings with no imports, AVEs estimated by USITC staff. |
| (7) Transparency in tariff regime | Hardcopy of U.S. HTS from U.S. Government Printing Office | Same as 1996, but including these enhancements: | |

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| | <p>PDF version of the U.S. HTS from USITC Dataweb</p> <p>Trade data from the U.S. Census Bureau and USITC Dataweb available to public</p> | <p>Online U.S. HTS reference tool from USITC: Sophisticated navigation and searches as compared with PDF version. See http://hts.usitc.gov/</p> <p>Tariff database online: Complete tariff information downloadable from USITC Dataweb, including trade preference program indicators and staged duty rates by HTS tariff line. See http://reportweb.usitc.gov/tariff/tariff_form_.jsp</p> <p>Customs Rulings Customs Rulings (CROSS) from Customs and Border Protection web site: View product HTS classification rulings. See http://rulings.cbp.gov/</p> | |
| 2. Non-Tariff Measures | | | |
| (1) Quantitative import | (Number of tariff lines | (Number of tariff lines | The United States generally maintains non-tariff measures |

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| restrictions/ prohibitions | applicable) | applicable) | <p>(NTMs) to protect health, safety, security or the environment, or to discharge U.S. obligations under international agreements. Since 1996, the United States has continued to maintain one of the most transparent and accessible trade policy regimes in the world. For example, the U.S. Trade Representative has a standing request with the independent International Trade Commission to report publicly every two years on the economic effects of remaining U.S. import restrictions. The transparency of the U.S. system reflects the high value that the United States places on public disclosure in matters of government policy.</p> <p>The U.S. Administrative Procedures Act of 1949 (5 U.S. C. 553) requires that the public be provided with notice and opportunity to comment on proposed standards, technical regulations, and conformity assessment procedures prior to final rule making. Notices announcing proposed and final rules are published in the Federal Register, which can be accessed electronically via the Internet. Access site http://www.gpoaccess.gov/nara/index.html is updated daily. The public can also get involved in the rule-making process through regulations.gov, the main U.S. source for regulations and other related documents issued by the U.S. government. Through this site, the public can find, read and comment on documents.</p> |

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| | | | <p>The United States is participating in those components of early voluntary sectoral liberalization (EVSL) initiatives designed to address eliminating or reducing non-tariff barriers. The United States has notified non-tariff measures in the WTO. Most of the information provided in this document has been submitted to the WTO Import Licensing Committee, and descriptions of the programs and policies in those submissions can be found under the name of the U.S. agency responsible for implementation.</p> <p>Going beyond the Osaka Action Agenda (OAA), the United States is an active participant in the WTO Doha Development Agenda negotiations on non-tariff barriers to trade in industrial goods conducted in the Negotiating Group on Non-Agricultural Market Access. The United States is a sponsor of proposals on remanufactured goods; textiles, apparel, footwear, and travel goods; electronics; automotive products; and transparency in export licensing. Many of these proposals focus on promoting enhanced transparency and good regulatory practices, which facilitate the prevention of NTBs from arising in the first place. The United States also sponsors a number of bilateral requests of Members to eliminate specific NTBs.</p> <p>The World Bank's <i>Overall Trade Restrictiveness Index</i> for tariff and non-tariff measures scores the United States at 6.4</p> |

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| | | | in comparison to the worldwide average of 13.26 (<i>Note: Data from June 2007, http://info.worldbank.org/etools/wti2008/docs/2.xls</i>). |
| Shrimp and shrimp products | 3 | 3 | |
| Narcotics and controlled substances | Not available | Not available | Import restrictions on certain narcotics and narcotic raw materials. |
| Textile and apparel | 795 | 0 | Quotas on imports of textiles and apparel established under the Multifiber Arrangement (negotiated under the GATT) were removed in phases under the Uruguay Round Agreement on Textiles and Clothing, with the final removal taking place at the end of 2004. After January 1, 2005, imports of certain textile and apparel articles from China were subject to safeguard measures under the textile safeguard provision in China's WTO Accession Agreement. These safeguard measures were subsequently superseded by a Memorandum of Understanding between the United States and China that established 21 quotas on 34 categories of textile and apparel products. The MOU went into effect on January 1, 2006 and expired at the end of December 2008. In addition, some textile and apparel imports from non-WTO member countries (Belarus, Ukraine, and Vietnam) were subject to quotas. However, these quotas were eliminated upon Vietnam's accession to the WTO in January 2007, Ukraine's accession to the WTO in February 2008, and with the expiration of the U.S.-Belarus bilateral textile agreement at the end of 2005. |

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| Carbon and alloy steel slabs | 0 | 0 | Carbon and alloy slabs (3 tariff lines), not previously subject to import quotas, were subject to Sec. 203 TRQs from March 2002 through December 2003. |
| Carbon and alloy steel wire rods | 0 | 0 | Steel wire rods (4 tariff lines), not previously subject to import quotas, were subject to Sec. 203 TRQs from March 2000 through March 2003. |
| Cut-to-length steel plate | 0 | 12 | Suspension agreement with Russia entered into effect October 1997 |
| Cut-to-length steel plate | 0 | 12 | Suspension agreement with Ukraine entered into effect October 1997. |
| Hot-rolled flat-rolled carbon-quality steel products | 0 | 18 | Suspension agreement with Russia entered into effect July 1999. Some “microalloy” products are included in 9 other tariff lines. |
| Rough diamonds | 0 | 3 | Import prohibition of rough diamonds not in accordance w/ the Kimberley Process Certification Scheme (on or after July 2003). |
| Rubies and jadeite, and articles of jewellery containing rubies or jadeite | 0 | 5 | Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act (PL 110-286, JADE Act, July 2008) bans the importation of these gemstones and jewelry items from Burma. |

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| Arms and ammunition | N/A | N/A | The Arms Export Control Act (1976) established import controls on certain arms and ammunition. Antique firearms are exempt. A 1989 decision banned importation of certain assault rifles as not suitable for sporting purposes—the ban expired in 2004. |
| Wood and wood products made from illegally harvested wood | 0 | See note | Imports of all products containing illegally harvested wood prohibited per the Lacey Act of 2008. Lacey Act of 2008 requires importers to report wood species and country of origin for wood and wood products. <i>Note:</i> The Lacey Act addresses the “illegal” trafficking of wildlife, fish, and plants. |
| (2) Import licensing | (Number of tariff lines applicable) | (Number of tariff lines applicable) | |
| Plant and plant products | 276 | 276 | Import permits required for most plants and some plant products, to protect against the introduction of pests and diseases and human health. |
| Animal and animal products | 142 | 142 | Import permits are required for importation of certain animals and animal products to protect U.S. livestock and poultry against the introduction or spread of diseases and human health. |
| Wildlife, plants and endangered species | <i>See Note</i> | <i>See Note</i> | <i>Note:</i> Legislation intended to ensure the survival of endangered species across a broad spectrum of import categories. |

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| Alcoholic beverages | 15 | 15 | Producers, bottlers, wholesalers, and importers are required to hold permits. |
| Narcotics and controlled substances | Not available | Not available | Importation requires annual registration as an importer |
| Explosives, blasting agents, and detonators | Not available | Not available | Permits are required for purchase either interstate or from abroad. |
| Natural gas | 2 | 2 | Natural Gas Act (1938) and Energy Policy Act (October 1992) require authorization orders for importing either by pipeline or as liquefied natural gas (LNG). |
| Cement | 0 | 3 | Licensing system in effect (3 tariff lines) for the duration of the U.S.-Mexico Cement Agreement, from April 2007 thru March 2009. |
| Steel mill products | 0 | 172 | In February 2003 (as part of the general Steel Safeguard), the United States required importers to obtain an automatic steel import license for imports of certain steel products. Following the termination of the steel safeguard, the licensing requirement was extended under separate authority and expanded to include all steel products. Automatic steel import licenses are issued free of charge through an on-line licensing system administered by the Steel Import Monitoring and Analysis (SIMA) office. |

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| | | | There are no quantitative restrictions and approval is automatic, generally within seconds of application. Aggregate statistical information collected from the licenses is posted to the steel monitor website which is available to the public, also free of charge. For more information visit http://ia.ita.doc.gov/steel/license/ . |
| Arms and ammunition | 21 | 21 | Gun Control Act (1968) established an import license and permit system for manufacturing, importing, and dealing of firearms and ammunition. |
| (3) Import Levies | N/A | N/A | N/A |
| (4) Export Subsidies | | | |
| Dairy and dairy products | 15 | 15 | The United States is fully compliant with its WTO obligations for export subsidies. |
| (5) Other non-tariff measures maintained | N/A | N/A | |
| 3. Services | | | |
| (1) Number of sectors out of 55 services sectors in which market access and/or NT are granted as a result of the commitments in the GATS | 38 | -- | The United States has also undertaken and fully implemented commitments pursuant to the WTO <i>Understanding on Commitments in Financial Services and the Telecommunications Reference Paper</i> . In the World Bank's <i>World Trade Indicators</i> analysis of the quality of GATS commitments, the United States has the highest ranking of any APEC member. |

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| (2) Number of sectors out of 55 services sectors in which MFN exemptions maintained as a result of the commitments in the GATS | 7 (not including those applicable to all sectors) | -- | |
| (3) Number of sectors out of 55 services sectors in which market access and/or NT are offered in the DDA under the GATS | -- | 49 | |
| (4) Number of sectors out of 55 services sectors in which MFN exemptions maintained in the DDA under the GATS | -- | 6 (not including those applicable to all sectors) | |
| (5) Number of RTAs/FTAs in which more market access and/or NT are committed to services sectors than those in the commitments under the GATS | 1 agreement, with 2 partner economies | 9 agreements, with 15 partner economies (and an additional 3 agreements concluded) | |
| (6) Number of sectors in which licensing and qualification requirements apply specifically to foreign service providers | Very few sectors (less than 5). | (See right column) | The U.S. services regime is broadly non-discriminatory, and has been so for at least the last 15 years. At the Federal level, licensing and/or qualification requirements in the great majority of sectors are non-discriminatory. In a very limited number of sectors (e.g., radio communications) specific licensing requirements can apply to foreign service providers. |

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| | | | At the regional level, in some U.S. States, the ability of a foreign service provider to qualify for a license in certain sectors is limited, or – as is sometimes the case in the professional services – can be subject to residency or nationality requirements. However, where foreign suppliers can qualify to obtain a license, the licensing and qualification requirements are the same as for domestic suppliers; that is, no specific (unique or additional) requirements apply to those foreign suppliers. |
| (7) Measures to improve transparency in services | (See right column) | (See right column) | The United States is committed to maintaining an open and transparent environment for service suppliers, as evidenced by the extensive commitments on transparency included in U.S. FTAs. These provisions of U.S. FTAs require, for example, that Parties promptly publish measures affecting services trade, and, to the extent possible, publish proposed measures in advance, allow persons of the other Party to comment on them, and address in writing any substantive comments received. |
| 4. Investment | | | |
| (1) Restrictions on foreign investment | Very few restrictions on foreign investment (<i>see right column</i>). | Very few restrictions on foreign investment (<i>see right column</i>). | U.S. policies on foreign investment have changed little over the past several decades. As noted in the most recent (2007) <i>Guide to the Investment Regimes of APEC Member Economies</i> , it is the policy of the United States Government to regulate foreign investment as little as possible. The |

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| | | | <p>U.S. investment regime is characterized by a high degree of openness, and is based on the principle of national treatment. Foreign and domestic investors are treated alike in most sectors of the U.S. economy. Measures affecting foreign ownership of investment are limited to certain areas, such as atomic energy, mining, air and water transport, certain radio communications, and certain financial services sectors. (These measures are described in detail in the 2007 <i>Guide</i>.)</p> <p>In 1996, United States FDI in the APEC economies totaled \$258 billion and by 2008, FDI increased 218 percent to \$820 billion. APEC FDI in the United States was over \$194 billion in 1996 and increased to \$595 billion in 2008, an increase of 206 percent. (<i>Note: services trade data not available for Brunei Darussalam Papua New Guinea, Peru, Russia, and Viet Nam</i>)</p> |
| (2) Investment by foreigners entails offsets (performance requirements, export requirements, local content requirements) | No industries | No industries | <p>The United States has included a prohibition against performance requirements (PRs) in its international investment agreements since the early 1980s. These prohibitions were expanded in the 1990s. The NAFTA (concluded in 1994) prohibited a range of precisely PRs, applicable to <u>all</u> investments in the Parties' territories (not only to investments of the NAFTA Parties). In the WTO context, the United States has not been required to make any notifications of measures inconsistent with the TRIMS Agreement.</p> |

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| | | | The United States' current practice is to include robust disciplines on performance requirements in each international investment agreement that it negotiates. These disciplines – which extend beyond those in the TRIMs Agreement – prohibit the following: the imposition or enforcement of export and domestic-content requirements; requirements to use, purchase, or accord preference to domestic products; restrictions on imports or domestic sales based on levels of export or foreign-exchange inflow; requirements to transfer technology; and requirements to supply goods or services exclusively from the territory of a Party. The disciplines also prohibit the conditioning of advantages on compliance with certain of these requirements. |
| (3) Restrictions on transfers of capital | Not existing | Not existing | The United States has included a prohibition on capital transfer restrictions in its international investment agreements since the early 1980s. These provisions require that all transfers relating to a covered investment (both into and out from the territory of the investment) be permitted to be made “freely and without delay”. Under the terms of U.S. investment agreements, transfers must be permitted in a freely usable currency, at a market rate of exchange prevailing at the time of the transfer. |
| (4) Consistency with APEC | All | All | The principles of the APEC Non-Binding Investment |

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| Non-Binding Investment Principles | | | Principles are reflected in long-standing laws and policies that define the U.S. investment regime. The United States has also sought to advance the adoption of the principles abroad by concluding high-standard investment treaties and FTAs that include not only strong investor protections, but also transparency commitments and recognition that it is inappropriate to encourage investment by weakening domestic labor and environmental laws. |
| (5) Number of BITs and FTAs/RTAs which NT and MFN are ensured in relation to foreign investment | FTAs: 1 agreements, with 2 partner economies BITs – 25 agreements | FTAs: 8 agreements, with 14 partner economies (and an additional 3 agreements concluded) BITs – 40 agreements | U.S. BITs include broad NT and MFN obligations, which apply to all sectors except those expressly excluded from the scope of coverage of the BIT pursuant to a negative list of exceptions. The BIT's NT and MFN obligations apply throughout the full life cycle of the investment (i.e. establishment, expansion, management, conduct, operation, and sale or other disposition). |
| BITs and FTAs/RTAs with APEC member economies which NT and MFN are ensured in relation to foreign investment | 1 agreement, with 2 APEC partner economies | 5 agreements, with 6 APEC partner economies (and one additional agreement concluded) | |
| (6) Measures to improve transparency in investment | U.S. market one of the most transparent, liberal, and stable investment regimes in the world. | The Invest in America office, established within U.S. Department of Commerce, serves as the primary U.S. Government mechanism to | U.S. investment agreements (BITs and FTAs) contain robust transparency provisions that in many ways go beyond objectives outlined in relevant APEC instruments. U.S. BITs, for example, include an obligation on Parties to ensure that their laws and regulations relating to investment |

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| | | manage foreign investment promotion. The office serves several functions, including: facilitating inquiries from foreign investors interested in investing in the United States; serving as an ombudsman for the international investment community; connecting foreign investors with appropriate contacts in U.S. States; providing U.S. Government agencies with recommendations to improve the U.S. investment climate; and offering guidance on topics relating to investing in the United States. | <p>are published or otherwise made publicly available. U.S. BITs also permit investors to bring a claim against a Party for loss or damage that result from that Party's failure to adhere to this obligation. U.S. investment agreements also require Parties, to the extent possible, to publish proposed investment-related laws and regulations in advance, and to provide persons of the other Party an opportunity to comment them.</p> <p>U.S. BITs and FTAs also include provisions that require each Party to ensure that laws and regulations are administered in a consistent, impartial, and reasonable manner and that provide investors with an opportunity to have administrative decisions of a Party reviewed and corrected, where necessary.</p> |
| 5. Standards and Conformance | | | |
| (1) Number of domestic standards aligned with the target international standards for Voluntary Action Plan (VAP) | VAP for International Electrotechnical Commission System for Conformity Testing and Certification of Electrical Equipment (IECEE-CB): 2007 interim results: | VAP for IECEE-CB: 2008 results: 7 Identified 23 Modified 25 Completed, but not equivalent | The United States is one of the largest users of ISO and IEC standards, but does not have a mandatory adoption policy. While the United States has made an effort to collect the maximum amount of information for the VAP surveys in which we participated, given the decentralized nature of the U.S. standards system, collection of 100 percent is not feasible. Indeed, prior to 2007, there was no established process through which this information could be |

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| | <p>6 Identified 72 Modified 95 Completed, but not equivalent</p> <p>Or</p> <p>45% aligned</p> | <p>4 Not applicable</p> <p>Or</p> <p>55% aligned</p> | <p>systematically collected.</p> <p>We also note the standards surveyed in each iteration of the VAP are different as is the number of standards surveyed in each iteration. In fact, the VAP has covered a wide diversity of standards, including Codex, ISO, CISPR and IEC CB, since its inception). Therefore, the “percentage aligned” rather than the “number of standards” would be the relevant comparator.</p> <p>However, we urge caution in comparing the “percentage aligned” as well. Over the period of the VAP, both ISO and IEC have adopted “Global Relevance” policies, which recognize that in some instances various solutions exist to meet unique aspects of the local markets in different regions and countries. With globalization and the unification of markets, these market differences should be minimized over time and evolve into one global market. Simply projecting one solution that accommodates one market (but not others) as the International Standard will not force markets to evolve and coalesce. ISO and IEC’s Global Relevance policies have a bearing on the use of some of the standards in the VAP survey. Therefore, the degree of alignment and the adoption of IEC standards in the United States as measured by the VAP may increase as the implementation of the recently modified IEC Global Relevance Policy proceeds.</p> |

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| (2) Description of conformity assessment process including participation in and implementation of mutual recognition arrangements | <p>No Mutual Recognition Agreements (MRAs - government to government) in operation.</p> <p>No Mutual Recognition Arrangements (MLAs) in operation.</p> | <p>Mutual Recognition Agreements (MRAs) in operation:</p> <ul style="list-style-type: none"> • <u>EU and EEA EFTA</u> (bilateral, multi-sector) 27 EU Member States plus Norway, Iceland, Liechtenstein • <u>APEC Telecom Phase I</u> (multilateral, single sector) Canada, Singapore, Australia, Chinese Taipei, Hong Kong, Korea, Vietnam • <u>APEC Telecom Phase II</u> (multilateral, single sector) Canada, Singapore, Hong Kong • <u>Japan MRA</u> (bilateral, single sector) <p>Mutual Recognition</p> | <p>The United States employs a range of conformity assessment approaches and recognizes the value of mutual recognition arrangements in certain sectors but does not view mutual recognition arrangements as universally desirable. A number of U.S. programs (e.g., the National Voluntary Laboratory Accreditation Program, and the Nationally Recognized Testing Laboratory Program administered by the Occupational Safety and Health Administration) are open to direct participation by foreign-based conformity assessment bodies. In addition, a number of U.S. regulatory requirements are not predicated on third-party certification. For some regulatory requirements, manufacturers and importers are allowed to declare a product's conformity to regulatory requirements. Such openness negates the need for MRAs as a mechanism for additional access to the U.S. market.</p> <p>In 1998, the U.S. Office of Management and Budget issued <i>OMB Circular A-119 (Revised)</i> which established policies on Federal agency use and development of voluntary consensus standards and on conformity assessment activities.</p> <p>The National Institute of Standards and Technology (NIST) is responsible for coordination of Federal, State, and local standards activities and conformity assessment</p> |

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| | | <p>Agreements (MRAs) pending progress:</p> <ul style="list-style-type: none"> • <u>CITEL</u> (bilateral, single sector) Mexico • <u>APEC Telecom Phase I</u> China • <u>APEC Telecom Phase II</u> Korea <p>Mutual Recognition Arrangements (MLAs - not government to government) in operation:</p> <ul style="list-style-type: none"> • <u>Japan (with A2LA, NVLAP, VCCI) Exchange of Letters for Acceptance of Test Reports</u> <p>ILAC</p> <ul style="list-style-type: none"> • American Association for Laboratory | <p>activities with private sector standards activities and conformity assessment activities, with the goal of eliminating unnecessary duplication and complexity in the development and promulgation of conformity assessment requirements and measures. In 2000, NIST issued <i>Guidance on Federal Conformity Assessment Activities</i> (15 CFR Part 287) to improve the efficiency and effectiveness of Federal agency conformity assessment activities. Among other things, this <i>Guidance</i> instructs Federal agencies to use relevant guides or standards for conformity assessment practices published by domestic and international standardizing bodies as appropriate in meeting regulatory and procurement objectives.</p> <p>In 2002, the American National Standards Institute (ANSI), (which is the non-governmental organization that is the U.S. member body to the International Organization for Standardization (ISO), and through the U.S. National Committee (USNC), to the International Electro-technical Commission (IEC)) created the Conformity Assessment Policy Committee (CAPC). The CAPC is responsible for broad-based policy and position decisions on national, regional and international conformity assessment issues.</p> <p>Further, in 2007, ANSI published <i>The National Conformity Assessment Principles of the United States (2nd Ed.)</i>. The document articulates the principles for U.S. conformity</p> |

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| | | <p>Accreditation (A2LA) Testing and Calibration (Nov 2000)</p> <ul style="list-style-type: none"> • National Voluntary Laboratory Accreditation Program (NVLAP) Testing and Calibration (Nov 2000) • International Accreditation Service (IAS), Inc. Testing (Nov 2000) and Calibration (May 2005) • ANSI-ASQ National Accreditation Board <i>doing business as</i> ACLASS, Testing and Calibration (Sept 2006) • Laboratory Accreditation Bureau (L-A-B) Testing and Calibration (Dec 2007) • Perry Johnson Laboratory | <p>assessment activities that will allow consumers, buyers, sellers, regulators and other interested parties to have confidence in the processes of providing conformity assessment, while avoiding the creation of unnecessary barriers to trade.</p> <p>In 2008, preliminary survey results by the National Institute for Standards and Technology (NIST) show that U.S. conformity assessment boards (CABs) under the APEC Telecom MRA issued 2,800 Test Reports and 1,725 Certifications. In this survey, CABs noted that clients benefit from the convenience of working with labs that provide a broader scope of services and access to multiple economies. Further, CABs noted time and cost savings with elimination of in-country testing requirements and regulatory authority acceptance of U.S. CAB test reports.</p> <p>Also in 2008, the U.S. Consumer Product Safety Commission issued “<i>Third Party Conformity Assessment Body Accreditation Requirements for Testing Compliance with 16 C.F.R. Part 1303 As Required by the Consumer Product Safety Improvement Act of 2008</i>” which opted for a highly trade facilitative approach in its testing regime for children’s articles, one that is based on international standards and acceptance of test results from ILAC-accredited labs outside the United States.</p> |

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| | | <p>Accreditation, Inc. (PJLA) Testing (June 2008) and calibration (May 2009)</p> <ul style="list-style-type: none"> American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) Testing (April 2009) <p>IAF</p> <ul style="list-style-type: none"> American Society for Quality National Accreditation Board (ANAB) - QMS (Jan 1998, EMS (Oct 2004) <p>American National Standards Institute (ANSI) - Product (Oct 2008)</p> | <p>In 2009, the U.S. Food and Drug Administration (FDA) issued “<i>Guidance for Industry - Voluntary Third-Party Certification Programs for Foods and Feeds</i>” containing <i>FDA’s current thinking on the attributes for third-party certification programs that enable confidence in the credibility of the certification program, and includes the use of international standards on conformity assessment and use of the ILAC-accredited labs among such attributes.</i></p> |
| (3) Efforts to raise transparency and objectivity of standards | <ul style="list-style-type: none"> The Administrative Procedures Act enacted in 1946. | <ul style="list-style-type: none"> OMB Circular A-119 provides guidance U.S. Federal agencies on the use | <p>The U.S. standard system is market driven and private sector led. Efforts to raise the transparency and objectivity of standards are undertaken primarily by the</p> |

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| | <ul style="list-style-type: none"> • The Trade Agreements Act enacted in 1979. • The Uruguay Round Agreements Act enacted in 1994. • The National Technology Transfer and Advancement Act of 1995 (NTTAA) enacted. | <p>of, and participation in, voluntary consensus standards development</p> <ul style="list-style-type: none"> • NIST maintains Standards.gov containing information about federal agency use of standards for regulatory and procurement purposes • NIST operates the U.S. Inquiry Point of the WTO TBT Committee, notifyus@nist.gov • NIST operates NotifyUS.gov • NIST publishes annual reports on the use by U.S. Federal agencies of voluntary consensus standards and conformity assessment • ANSI maintains an online | <p>private sector standards organizations, such as the American National Standards Institute, but also by U.S. Federal agencies.</p> <p>Pursuant to the NIST National Technology Transfer and Advancement Act (NTTAA) and OMB Circular A-119, U.S. Federal agencies use standards in pursuit of their regulatory and procurement objectives, and, as appropriate to agency objectives, participate in the standards development process. NIST maintains several publically-available sources of information and facilities that increase the transparency and objectivity of standards used by government.</p> <p>Standards.Gov, maintained by NIST, offers background materials and useful links for locating information about the use of standards in government, particularly Federal agency use of standards for regulatory and procurement purposes. The objective is for Federal agencies to adopt private sector standards, wherever possible, in lieu of creating proprietary, non-consensus standards. NIST also reports annually to the Office of Management and Budget on the use of government-unique standards. The NIST reports to OMB are publicly available.</p> <p>In 1997, ANSI notifies its acceptance of the WTO Agreement on Technical Barriers to Trade's Code of Good</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | <p>search engine for standards, NSSN</p> <ul style="list-style-type: none"> • ANSI publishes weekly notification, <i>Standards Action</i> • ANSI maintains the <i>Standards Portal</i> database | <p>Practice on behalf of the standards developing organizations it accredits.</p> <p>In 2004, ANSI publishes the new edition of its <i>Essential Requirements: Requirements for Due Process for American National Standards</i>.</p> <p>ANSI's web-based information source on standards, National Standard Systems Network (NSSN): <i>Search Engine for Standards</i> provides users with standards-related information from a wide range of developers, including organizations accredited by ANSI, other U.S. private sector standards bodies, government agencies, and international organizations.</p> <p>ANSI <i>Standards Action</i>, which includes the Project Initiation Notification System (PINS), and early notification of proposed standards development. <i>Standards Action</i> is the ANSI's key public review vehicle. Published weekly, it provides members and the public with timely, accurate information and enables effective participation in the standards development process - both in the United States and internationally. ANSI regularly requests public comments on standards-related initiatives, including changes to ANSI's <i>Essential Requirements for Due Process</i> in the <i>Standards Action</i>. Weekly publication of <i>Standards Action</i> was launched in 2001.</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices | | | | | | | | | | |
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| | | | <p>Launched in 2006 in collaboration with the Standards Administration of China, the <i>ANSI Standards Portal</i> is a bilingual information resource to make it easier for business leaders and policy makers in both nations to understand the voluntary standards, mandatory requirements, and compliance programs that influence global commerce. Currently, the Standards Portal includes information on the following economies.</p> <table border="1" data-bbox="1381 721 1841 1161"> <thead> <tr> <th data-bbox="1381 721 1591 776">Economy</th> <th data-bbox="1591 721 1841 776">Language(s)</th> </tr> </thead> <tbody> <tr> <td data-bbox="1381 776 1591 935">United States (US)</td> <td data-bbox="1591 776 1841 935"> English (EN) Mandarin Chinese (CN) Korean (KR) </td> </tr> <tr> <td data-bbox="1381 935 1591 1058">People's Republic of China (PRC)</td> <td data-bbox="1591 935 1841 1058"> English (EN) Mandarin Chinese (CN) </td> </tr> <tr> <td data-bbox="1381 1058 1591 1114">Republic of India</td> <td data-bbox="1591 1058 1841 1114"> English (EN) </td> </tr> <tr> <td data-bbox="1381 1114 1591 1161">Republic of Korea</td> <td data-bbox="1591 1114 1841 1161"> English (EN) </td> </tr> </tbody> </table> <p>Access to the information on the <i>ANSI Standards Portal</i> is open to the public.</p> | Economy | Language(s) | United States (US) | English (EN) Mandarin Chinese (CN) Korean (KR) | People's Republic of China (PRC) | English (EN) Mandarin Chinese (CN) | Republic of India | English (EN) | Republic of Korea | English (EN) |
| Economy | Language(s) | | | | | | | | | | | | |
| United States (US) | English (EN) Mandarin Chinese (CN) Korean (KR) | | | | | | | | | | | | |
| People's Republic of China (PRC) | English (EN) Mandarin Chinese (CN) | | | | | | | | | | | | |
| Republic of India | English (EN) | | | | | | | | | | | | |
| Republic of Korea | English (EN) | | | | | | | | | | | | |
| 6. Customs Procedures | | | | | | | | | | | | | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| (1) Adoption of HS2007 nomenclature | The U.S. was a contracting party to the International Convention on Harmonized Commodity Description and Coding System (“Harmonized System”). The Harmonized System forms the core of the U.S. tariff, the Harmonized Tariff Schedule of the U.S. | HS2007 - Adopted | On February 3, 2007, the U.S. implemented the HS2007. |
| (2) Conformity with the Revised Kyoto Convention | The U.S. is a contracting party to the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention). | Revised Kyoto Convention - Acceded | U.S. Customs and Border Protection (CBP) acceded to the Revised Kyoto Convention on June 12, 2005 and is an active member of the Management Committee. |
| (3) Transparency | U.S. Customs Service regulations published in the Code of Federal Regulations. Major rulings and decisions published in the Customs Bulletin and the Federal Register. | Access to information about CBP guidelines, regulations, rulings, etc. has become increasingly easier through continuous efforts to improve accessibility. Through Internet-based tools, public-private committees and public symposiums and seminars, CBP works very closely with the private sector. | Internet: CBP provides information to the public via its website: www.CBP.gov Advisory Committee on Commercial Operations of Customs and Border Protection (COAC): COAC is a public-private Committee. The COAC advises the Secretaries of the Department of the Treasury and the Department of Homeland Security (DHS) on the commercial operations of CBP and related DHS and Treasury functions. It is expected that the Committee will consider such issues as: enhanced border and cargo supply chain security, CBP modernization and automation, informed compliance and compliance assessment, |

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| | | | <p>account-based processing, commercial enforcement and uniformity, international efforts to harmonize customs practices and procedures, strategic planning, and import safety.</p> <p>Annual Trade Symposium: CBP hosts a Trade Symposium on an annual basis. The 2009 symposium highlighted important work being done in partnership with other agencies, the trade community and other governments to improve efforts in areas such as trade facilitation and compliance, import safety and security.</p> <p>Annual Customs-Trade Partnership Against Terrorism (C-TPAT) Seminar: C-TPAT holds an annual conference on supply chain security. This seminar is an opportunity for senior CBP managers to engage in an open dialogue with members of our Customs-Trade Partnership Against Terrorism (C-TPAT) program on the status of current supply chain security initiatives.</p> |
| (4) Use of information technology and automation (e.g. Single Window, Harmonised Trade Data Elements, Paperless Trading, etc.) | During the 1980's, CBP's predecessor agency, the U.S. Customs Service, moved from a man-powered driven operating environment to one that relied on automation and technology. | Use of the Automated Targeting System (ATS) The development of the Automated Customs Environment (ACE) | Automated Targeting System (ATS): ATS is an Intranet-based enforcement and decision support tool that is the cornerstone for all CBP targeting efforts. CBP uses ATS to improve the collection, use, analysis, and dissemination of information that is gathered for the primary purpose of targeting, identifying, and preventing potential terrorists and terrorist weapons from entering the United States. |

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| | <p>The U.S. Customs Service's automated systems provided for exchange of information between traders, carriers, and the government using a variety of protocols and formats including UN/EDIFACT.</p> | | <p>Additionally, ATS is utilized by CBP to identify other violations of U.S. laws that are enforced by CBP. In this way, ATS allows CBP officers to focus their efforts on travelers and cargo shipments that most warrant greater scrutiny. ATS standardizes names, addresses, conveyance names, and similar data so these data elements can be more easily associated with other business data and personal information to form a more complete picture of a traveler, import, or export in context with previous behavior of the parties involved. Every traveler and all shipments are processed through ATS, and are subject to a real-time rule based evaluation.</p> <p>Single Window: The Automated Commercial Environment is the commercial trade processing system being developed by CBP to facilitate trade while strengthening border security. The ACE Secure Data Portal, essentially a customized Web page, connects CBP, the trade community and participating government agencies by providing a single, centralized, online access point for communications and information related to cargo shipments. As of August 2009, there are more than 17,000 ACE portal accounts, including 3,000 importer accounts, more than 800 broker accounts and more than 14,000 carrier accounts. More than \$40 billion in duties and fees have been paid through the ACE monthly statement process since the first payment was made in July 2004. The International Trade Data</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | | <p>System is a program that is ensuring inter-agency participation in ACE. Through ITDS efforts, ACE will provide a “single window” for collecting and sharing trade data with agencies that are responsible for ensuring the compliance of imported and exported cargo with U.S. laws. To date, there are 46 Participating Government Agencies in ITDS.</p> <p>More than 500 end-users from 27 PGAs have access to the ACE portal. Deployed in phases, ACE will be expanded to provide cargo processing capabilities across all modes of transportation and will replace existing systems with a single, multi-modal manifest system for land, air, and rail and sea cargo. Future releases will result in further automation of entry summary processing and enhanced account management features.</p> |
| (5) Measures to secure trade (e.g. AEO, etc.) | The U.S. Customs Service focused on trade facilitation and compliance issues. Security did not become a part of the U.S. Customs agenda until 2001, following the attacks of 9/11. | <p>Establishment of the Container Security Initiative (CSI)</p> <p>Establishment of the Customs-Trade Partnership Against Terrorism (C-TPAT)</p> <p>Negotiations and arrangements for the Mutual Recognition of Authorized Economic Operators (AEOs)</p> | <p>Container Security Initiative (CSI): CSI, a program intended to help increase security for containerized cargo, was established in 2002. CSI is located at 58 seaports around the world and addresses the threat to border security and global trade posed by the potential for terrorist use of a maritime container to deliver a weapon.</p> <p>Customs-Trade Partnership Against Terrorism (C-TPAT) program: C-TPAT is a voluntary government-business initiative to build cooperative relationships that strengthen and improve overall</p> |

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| | | <p>Establishment of the National Targeting Center-Cargo (NTC-C)</p> <p>Non-intrusive Inspection (NII) technology advancements</p> | <p>international supply chain and U.S. border security.</p> <p>C-TPAT recognizes that CBP can provide the highest level of cargo security only through close cooperation with the ultimate owners of the international supply chain such as importers, carriers, consolidators, licensed customs brokers, and manufacturers. Through this initiative, CBP is asking businesses to ensure the integrity of their security practices and communicate and verify the security guidelines of their business partners within the supply chain.</p> <p>C-TPAT offers trade-related businesses an opportunity to play an active role in the war against terrorism. By participating C-TPAT, companies will ensure a more secure and expeditious supply chain for their employees, suppliers and customers.</p> <p>CBP recognizes that a safe and secure supply chain is the most critical part of our work in keeping our country safe. For this reason, CBP is seeking a strong anti-terrorism partnership with the trade community through C-TPAT. Trade partners will have a commitment to both trade security and trade compliance rooted in their business practices. CBP wants to work closely with companies whose good business practices ensure supply chain security and compliance with trade laws.</p> <p>Mutual Recognition of Authorized Economic Operator (AEO) programs: CBP has signed Mutual Recognition</p> |

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| | | | <p>Arrangements with Canada, Japan, Jordan and New Zealand. The goal of mutual recognition is to link the various international industry partnership programs, so that together they create a unified and sustainable security posture that can assist in securing and facilitating global cargo trade. The signing of a mutual recognition arrangement is the procedure that enables information sharing activities to occur in accordance with the terms of the Customs Mutual Assistance Agreement (CMAA), and each participant's domestic law and policy.</p> <p>National Targeting Center - Cargo (NTC-C): A preeminent anti-terrorism facility that provides tactical targeting and analytical research in support of U.S. Customs and Border Protection's anti-terrorism efforts</p> <p>Non-Intrusive Inspection Technologies: The Non-Intrusive Inspection (NII) Division of the Office of Field Operations is responsible for developing and implementing the CBP NII Acquisition Strategy and Deployment Plan. From needs generation and sourcing to procurement, deployment and maintenance, the NII Division manages the NII technology at U.S. ports of entry from its inception to its disposal. These systems, which include large-scale x-ray and gamma-ray imaging systems, radiation detection equipment, small-scale baggage x-ray systems, portable and hand-held devices, are important</p> |

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| | | | tools that help CBP Officers fulfill their mission of preventing terrorists and terrorist weapons from entering the United States while facilitating the flow of legitimate trade and travel. |
| (6) Implementation of other customs measures to facilitate trade (e.g. Advance Classification Ruling System, Time Release Survey, etc.) | <p>Tariff Classification Rulings: In the late 1980's U.S. Customs Service introduced binding tariff classification rulings under Chapters 1-97 of the Harmonized Tariff Schedule of the United States (HTSUS). The rulings are binding at all ports of entry unless revoked by the Headquarters' Office of Regulations and Rulings.</p> <p>Customs and Border Protection will issue rulings within 30 calendar days of the date of receipt. Delay may occur if a laboratory report or consultation with another government agency is required. Rulings that require referral to Headquarters, Office of Regulations and Rulings, will be issued within</p> | The Office of Trade was established on September 26, 2006. | <p>Establishment of the Office of Trade (OT): OT directs the national trade policy and national trade program functions of CBP and provides uniformity and clarity for the development of CBP's national strategy to facilitate legitimate trade. Through the use of effective commercial targeting, coordination with international partners and other agencies, partnerships with the importing community and trade associations, risk-based approaches to identifying and addressing trade issues and the full use of the legal tools and authorities available to CBP, OT strengthens CBP's ability to facilitate the flow of legitimate trade across U.S. borders while securing U.S. borders and protecting the American economy from unfair trade practices and illicit commercial enterprises.</p> <p>Ruling Requests: It is in the interest of the sound administration of CBP and related laws that persons engaging in any transaction affected by those laws fully understand the consequences of that transaction prior to its consummation. For this reason, CBP will give full and careful consideration to written requests from importers and other interested parties for rulings or information setting</p> |

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| | <p>120 days of receipt by the Customs and Border Protection.</p> <p>Classification rulings are binding effective on the date of the ruling letter. These classifications will be accepted at entry, summary, and liquidation at all ports of entry unless revoked by OR&R.</p> <p>Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Valuation Agreement): The U.S. value law is section 402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979. The U.S. Regulations are included in title 19, Code of Federal Regulations, Part 152.</p> <p>Customs and Border Protection is required by law to determine the value for imported</p> | | <p>forth, with respect to a specifically described transaction, a definitive interpretation of applicable law, or other appropriate information.</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>merchandise. Consistent with the WTO Valuation Agreement, generally, the customs value of all merchandise imported into the United States will be the transaction value for the goods. If the transaction value cannot be used, then certain secondary bases are considered in the following order:</p> <ul style="list-style-type: none"> • transaction value of identical merchandise • transaction value of similar merchandise • deductive value • computed value • fallback method <p>Introduce clear appeal provisions: The United States applies clear appeal provisions affecting appraised value,</p> | | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | classification and rates, etc., and has established the Office of the Trade Ombudsman | | |
| 7. Intellectual Property (IP) | | | |
| (1) Ratification and implementation of the major multilateral agreements relating to IP rights | <p>As of 1996, major multilateral agreement related to IP right of which the United States was a member included:</p> <ul style="list-style-type: none"> • Paris Convention for the Protection of Industrial Property • Berne Convention for the Protection of Literary and Artistic Works • Patent Cooperation Treaty • Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) | <p>The United States is currently a member of all major multilateral agreements relating to IP rights including:</p> <ul style="list-style-type: none"> • Protocol relating to the Madrid Agreement concerning the International Registration of Marks • Trademark Law Treaty • Singapore Treaty on the Law of Trademarks • WIPO Copyright Treaty • WIPO Performance and Phonograms Treaty • Act of 1991 - International Convention for the | |

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| | | Protection of New Varieties of Plants | |
| (2) Measures to ensure the expeditious granting of IP rights | | <p>(1) American Inventors Protection Act of 1999</p> <p>(2) Patent reform legislation</p> <p>(3) IP5 Framework</p> | <p>(1) In 1999, “American Inventors Protection Act” was enacted by Congress. The law includes provisions to amend the Patent Law and reorganize the Patent and Trademark Office (the “PTO”). These changes include: a new defense for parties accused of infringing business method patents, a provision for inter partes reexamination proceedings, a provision for publication of patent applications and provisions for patent term guarantees.</p> <p>(2) As for current patent reform legislation efforts, the USPTO works with Congress as it continues consideration of a wide range of legislative proposals for patent reform that include those directly affecting USPTO operations and those intended to reform patent infringement litigation.</p> <p>(3) IP5 Framework: the leaders of the five largest Patent Offices in the world have recently held several meetings to exchange views and explore approaches for enhancing cooperation on patent examination and administration issues. The five offices, the USPTO, the State Intellectual Property Office of the People’s Republic of China (SIPO), the Korea Industrial Property Office (KIPO), the Japan</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | (4) Trilateral Cooperation | (4) Trilateral Cooperation | <p>Patent Office (JPO) and the European Patent Office (EPO) have identified work sharing and information technology as the most visible issues that can produce enhanced productivity for all the Offices. These offices continue to hold working and higher level meetings to focus on projects to lay the foundation for cooperation on work sharing initiatives.</p> <p>(4) Since 1983, the Trilateral Offices, the USPTO, the EPO and the JPO have met to discuss areas of cooperation in sharing search tools, in seeking ways to benefit from the advances in information technology, in establishing WIPO and inter-office standards, in addressing global workload issues, reducing the duplication of effort among the Offices, and to better serve customers in a global IP business environment. An immediate issue the Trilateral Offices face is the increasing workload stemming from the growth in the number of national, regional, and PCT applications. A common and coordinated effort is being developed to address the workload situation. The Trilateral Offices continue to pursue cooperation for supporting objectives of: workload sharing, harmonization of classification schemes, harmonization of practices, and collaborating on automation development, especially, in regards to moving toward use of common search tools.</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | (7) Madrid Protocol Implementation Act (November 2002) | trademark holders -- individuals and businesses -- to ensure protection for their marks in multiple countries through the filing of one application with a single office, in one language, with one set of fees, in one currency. |
| (3) Measures to provide for the effective enforcement of IP rights | Between 1996 and 2009, important measures to enhance the provision of effective enforcement of IP rights are described in the "Status in 2009" column. | (1) Economic Espionage Act of 1996 (2) Digital Millennium Copyright Act (DMCA) of 1998 | (1) The Economic Espionage Act of 1996 provides law enforcement, including the FBI, with a tool to deal more effectively with trade secret theft. The law penalizes commercial theft of trade secrets in cases not involving foreign powers. (2) The Digital Millennium Copyright Act (DMCA) was enacted by Congress in 1998 to move the nation's copyright system into the digital age. It does so by implementing the obligations of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty (collectively known as the WIPO Internet Treaties), including by providing for the protection of technological protection systems and copyright management information, and by addressing other significant copyright-related issues, such as internet service provider liability and other amendments. Additionally, the DMCA addresses other copyright issues as well. |

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| | | (3) Family Entertainment and Copyright Act of 2005 | <p>(3) In 2005, Congress enacted the Family Entertainment and Copyright Act. This legislation amended the federal criminal code to prohibit the knowing or attempted use of a video camera, or other audio-visual recording device, to make or transmit a copy of a motion picture or other copyrighted audio-visual work from a performance of such work in a movie theatre or similar venue without authorization. The law established a maximum sentence of three years in prison for a first offense. The legislation also required the court to order forfeiture and destruction of all unauthorized copies of the motion picture and any equipment used to carry out the violation. With reasonable cause, the owner, lessee, or employee of a theatre is authorized to detain, in a reasonable manner for a reasonable time, suspected violators for questioning or to contact law enforcement. In addition, this legislation established criminal penalties for the act of willful copyright infringement through distribution of certain copyrighted works being prepared for commercial distribution – including movies, software, games, and music – by making them available on a computer network accessible to members of the public, if the person knew, or should have known, that the work was intended for commercial distribution.</p> <p>(4) The Stop Counterfeiting in Manufactured Goods Act modified the federal criminal law relating to the trafficking</p> |

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| | | <p>(4) Stop Counterfeiting in Manufactured Goods Act of 2006</p> <p>(5) Trademark Dilution Revision Act (TDRA) of 2006</p> | <p>in counterfeit goods and services by prohibiting trafficking in labels, documents, or packaging that bear counterfeit marks intended for goods or services. The legislation also expanded the definition of “trafficking” to include distribution of counterfeits for a wider variety of commercial purposes than was covered previously. Moreover, the legislation criminalized the possession of counterfeits with intent to distribute, as well as the import and export of counterfeit goods. Finally, the statute subjected to forfeiture any article that bears or consists of a counterfeit mark, and any property derived from proceeds or used in the commission of the violation.</p> <p>(5) The Trademark Dilution Revision Act (TDRA), enacted in October 2006, is designed to protect famous marks from uses that blur their distinctiveness or tarnish their reputation. Moreover, the TDRA amends the Federal Trademark Dilution Act of 1995 by clarifying that a plaintiff is only required to show the defendant's mark is <i>likely</i> to cause dilution rather than actual dilution.</p> <p>(6) The Prioritizing Resources and Organization for Intellectual Property (PRO-IP) Act of 2008 allows for more severe civil penalties to be assessed to those found guilty of violating intellectual property (“IP”) laws and improves the civil remedies available to the victims. The law calls for coordinated U.S. agency efforts in the fight against</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | (6) Prioritizing Resources and Organization for Intellectual Property (PRO-IP) Act of 2008 | intellectual property crimes, effectively marshalling national resources to help better equip state and local associations when protecting IP rights. |
| (4) Measures to harmonise IP rights systems in the APEC region | <p>In August 1996, at the meeting of experts of the Asia Pacific Economic Cooperation (APEC), the U.S. delegation presented a proposal for establishing a trademark mailbox system to simplify the filing of trademarks among APEC member offices. PTO officials provided technical advice on U.S. views concerning the Individual and Collective Action Agendas.</p> <p>The USPTO continued its 13-year trilateral cooperation with the European Patent Office (EPO) and the Japanese Patent Office (JPO). The three</p> | The U.S. sponsored Patent Cooperation Initiative on Patent Acquisition Procedures – Roadmap for Further Cooperation; proposal initiated in 2008, progress on implementation ongoing | <p>Patent Cooperation Initiative on Patent Acquisition Procedures – Roadmap for Further Cooperation</p> <p>The roadmap, which is based on the APEC Cooperation Initiative on Patent Acquisition Procedures, provides participants of the initiative with specific guidance on how to achieve the overall goals of the initiative: enable patent applicants to more quickly obtain higher quality patents in the APEC region by enhancing patent examination cooperation, promoting computerization and improved patent examination quality.</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>organizations recognize the need for international cooperation in the field of industrial property systems, the need to address the rapid development of information and communication technologies, and the importance of protecting emerging technologies appropriately. Representatives of the three offices met in the Hague in April 1996 to pursue cooperative efforts in areas such as search tools, patent information, and electronic filing.</p> | | |
| (5) Public education about IP | | (1) 2004 “STOP!” initiative | (1) In October 2004, the U.S. Trade Representative, the Secretary of Commerce, the Attorney General and the Undersecretary of Homeland Security announced the “STOP!” initiative, a coordinated, government-wide initiative designed to empower American businesses to secure and enforce their intellectual property rights in overseas markets, stop fakes at U.S. borders, keep global supply chains free of infringing goods, dismantle criminal enterprises that steal America’s intellectual property and |

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| | | | <p>reach out to like-minded trading partners to build an international coalition to stop piracy and counterfeiting worldwide. Public education about IP is a major component of the STOP! Initiative. USPTO and the Department of Commerce have organized and conducted many of these public awareness projects:</p> <p>(a) IPAC: USPTO has organized and conducted numerous educational outreach programs through the “Intellectual Property Awareness Campaign” (IPAC). These programs, which take place in cities throughout the United States, inform and train SMEs on how to secure and protect their rights in today's global marketplace, and where to go for federal assistance to aid their foreign business ventures, with an emphasis on the China market. The USPTO has conducted ten IPAC conferences since the program's inception in 2005 and six more are being planned for 2007.</p> <p>(b) The USPTO has established a hotline (1-866-999-HALT) to give SMEs a point of contact for information on IPR enforcement and to report problems in other countries.</p> <p>(c) The USPTO has also launched the web-site www.stopfakes.gov/smallbusiness where SMEs can go to learn about the basics of IP protection, to learn about upcoming regional conferences, and to order DVDs on the</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | (2) USPTO public awareness activities | (2) USPTO public awareness activities | <p>basics of IP and IPR enforcement.</p> <p>(d) The Department of Commerce provides information on the steps businesses should take to protect IPR in many of its outreach events, and is also training its staff to counsel businesses more comprehensively. Commerce has also developed a number of IPR resources, including a website (www.stopfakes.gov) to provide information and guidance to rights-holders on how to register and protect their IP assets in markets around the world.</p> <p>(e) The State Department has been training embassy personnel to be effective first responders to IPR issues, and has developed an internal web page, which provides up-to-date points of contact and guidance on how to effectively serve the concerns of right holders.</p> <p>(2) The USPTO has also been sponsoring other public awareness initiatives as part of its general mission to promote the protection of IP:</p> <p>(a) The USPTO has been sponsoring the Kids and Chemistry program since 1994, an outreach program developed by the American Chemical Society to give scientists the resources and training necessary to share hands-on experiments with school age children.</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | | <p>(b) The USPTO provides a website called the “Kids’ Pages” to stimulate children's interest in innovation and intellectual property protection and its role in our national history and economy.</p> <p>(c) USPTO funds and co-sponsors Camp Invention, a nationwide educational outreach program designed to give children (grades two through six) an alternative to traditional classroom experiences.</p> <p>(d) In April 2007, the USPTO launched a multi-media public service for children called "Inspire Invention." The campaign consists of TV, radio, and print advertisements that communicate that there is a role for every kind of unique curiosity and imaginative idea as it relates to invention.</p> <p>(e) Since 1995, the U.S. Patent and Trademark Museum has striven to educate the public about the patent and trademark systems, and the important role intellectual property protection plays in our nation's social and economic health.</p> |
| (6) International cooperation on IP rights | (1) IP5 framework | (1) IP5 framework (2) Trilateral Cooperation | (1) See description in sub-section 2, “Measures to ensure the expeditious granting of IP rights” (2) See description in sub-section 2, “Measures to ensure |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | (3) Bilateral cooperation with many countries on IP matters | the expeditious granting of IP rights” (3) The USPTO has entered into numerous bilateral agreements and Memoranda of Understanding with its counterpart offices in many countries to promote cooperation on matters ranging from patent database exchanges, to joint capacity building activities. Examples include: Memoranda of Understanding (MOU) with China’s trademark, patent and copyright offices, MOU with the India Patent Office, MOU with the IP Office of Ethiopia, MOU with the Africa Regional Intellectual Property Organization (ARIPO), MOU with the Kenya Intellectual Property Office, etc. In December 2009, USPTO announced that the Government of India has granted the USPTO’s patent examiners access to a new digital database containing a compilation of traditional Indian knowledge. Access to the Traditional Knowledge Digital Library (TKDL) is important for both India and the United States to prevent misappropriation of traditional knowledge. |
| (7) Measures to promote transparency of IP rights requirement (for example, the APEC Leaders’ Transparency | U.S. statutes and regulations can be found at: http://www.gpoaccess.gov/index.html | U.S. statutes and regulations can be found at: http://www.gpoaccess.gov/index.html | |

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| Standards) | <p>http://thomas.loc.gov</p> <p>Other helpful websites include http://www.uspto.gov/ for patent and trademark laws, regulations, and procedures, and http://www.copyright.gov/ for copyright laws, regulations, and procedures.</p> <p>A useful source for U.S. Federal judicial decisions is http://www.uscourts.gov/ . There are many relevant links on that website.</p> <p>Judicial opinions are also available on the websites of the various courts, and are also available for free through privately maintained websites such as www.findlaw.com, and through subscription research services such as Westlaw and Lexis.</p> | <p>http://thomas.loc.gov</p> <p>Other helpful websites include http://www.uspto.gov/ for patent and trademark laws, regulations, and procedures, and http://www.copyright.gov/ for copyright laws, regulations, and procedures.</p> <p>A useful source for U.S. Federal judicial decisions is http://www.uscourts.gov/ . There are many relevant links on that website.</p> <p>Judicial opinions are also available on the websites of the various courts, and are also available for free through privately maintained websites such as www.findlaw.com, and through subscription research services such as Westlaw and Lexis.</p> | |
| 8. Competition Policy | | | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| (1) Development of competition laws and establishment of competition authority | <p>The three principal U.S. federal antitrust laws are the Sherman Act, 15 U.S.C. sec. 1-7; the Clayton Act, 15 U.S.C. sec. 12-27 and the Federal Trade Commission Act, 15 U.S.C. sec. 41-58. The Sherman Act was enacted in 1890, the Clayton and Federal Trade Commission Acts were enacted in 1914. Numerous other federal statutes govern the antitrust treatment of particular sectors of the economy.</p> <p>U.S. competition law is enforced at the federal level by the Department of Justice, Antitrust Division (DOJ) and the Federal Trade Commission (FTC).</p> | See preceding column | <p>The United States continued its strong commitment to effective enforcement of the antitrust laws and to pro-competitive regulatory reform. The United States continued to enforce its federal antitrust laws to ensure that U.S. markets are free of harmful unilateral and concerted anti-competitive private conduct.</p> <p>The United States agencies demonstrated their commitment to continual evaluation of their practices and procedures thereby insuring effective enforcement of the federal antitrust laws. As described in more detail in the U.S. IAP for competition policy, recent examples of the agency's ongoing efforts towards continual evaluation and improvement include:</p> <ol style="list-style-type: none"> 1. In December 2009, the FTC and DOJ held the first three in a planned series of workshops intended to explore whether and how the agencies should update their Horizontal Merger Guidelines in light of changes in economic learning, the case law and practice at the DOJ and FTC since the last significant guidelines revision in 1992. The Horizontal Merger Guidelines are used by both agencies to evaluate the potential competitive effects of mergers and acquisitions. The first three workshops were held in Washington, D.C., New York and Chicago; additional workshops will take place in San Francisco and Washington in January. |

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| | | | <p>All the workshops are open to the public and the press. In addition to the workshops, the agencies solicited and received comments on this issue from interested parties. www.ftc.gov/opa/2009/11/futurenews.shtml.</p> <ol style="list-style-type: none"> 2. In January 2009, then-FTC Chairman Kovacic issued a report, following seven months of agency self-assessment, that considers basic questions and future directions as the Commission approaches its 100-year anniversary. The report seeks to promote periodic self-assessment within the agency to illuminate the way to future improvements. A copy of the report is available at www.ftc.gov/os/2009/01/ftc100rpt.pdf; 3. The FTC held a series of four workshops in January and May 2009 that explored how to best distinguish between uses of resale price maintenance that benefit consumers and those that do not, for the purposes of enforcing Section 1 of the Sherman Act and Section 5 of the FTC Act. The workshops focused on legal doctrines and jurisprudence related to resale price maintenance, theoretical and empirical economic research, and business and consumer experiences. 4. During 2010, the DOJ, with the U.S. Department of Agriculture, will host a series of joint public |

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| | | | <p>workshops across the United States to explore competition issues affecting the agriculture industry in the 21st century and the appropriate role for antitrust and regulatory enforcement in the industry. The goals of the workshops are to promote dialogue among interested parties and to foster learning with respect to the appropriate legal and economic analyses of these issues, as well as to listen to and learn from parties with real-world experience in the agriculture sector. The first of these workshops is currently scheduled to be held in March.</p> <p>For additional information, see www.usdoj.gov and www.ftc.gov.</p> |
| (2) Consistency with APEC Principles to Enhance Competition Policy and Deregulation and efforts to become consistent with the Principles | <p>All</p> <p>The U.S. competition policy regime is consistent with all APEC principles.</p> <p>Transparency: the U.S. believes that transparency is essential to the sound application of antitrust/competition law and maintaining its effectiveness,</p> | <p>See preceding column.</p> <p>In addition, as to comprehensiveness, the FTC issued in 2003 a staff report on the scope and applicability of the State Action doctrine, a judicially created exemption, making detailed recommendations clarifying the application and limited scope of this exemption to the antitrust</p> | <p>Transparency: Since 1996, the federal antitrust agencies have published <i>inter alia</i>, an enforcement policy guideline on competitor collaborations, DOJ published a policy guide to merger remedies and FTC published a statement on negotiating merger remedies. In addition, each federal antitrust agency continually expands and improves its website to publicize a wide array of information on its enforcement policies and activities and policy work <i>e.g.</i>, competition advocacies, reports and amicus briefs. With respect to settlement decisions, FTC also made changes to make the public explanations of proposed consent orders more informative. In addition, both agencies established a</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>impartiality and credibility. The U.S. ensures transparency of federal antitrust laws and enforcement policies through publication of, <i>inter alia</i>: antitrust laws and regulations, administrative, civil and criminal procedures, enforcement policy guidelines of the federal antitrust agencies (see U.S. IAP for list), judicial and administrative adjudicative decisions, and annual reports of the federal antitrust agencies.</p> <p>Nondiscrimination: The federal antitrust agencies have a policy of enforcing the antitrust laws in a non-discriminatory manner, without regard to the nationality of the parties; this policy is publicly stated in, among other places, the FTC-DOJ Antitrust Guidelines for International Operations. Foreign firms and individuals have access to the U.S.</p> | <p>laws. See www.ftc.gov/os/2003/09/stateactionreport.pdf.</p> | <p>policy of issuing public statements outlining the reasons for closing certain high profile investigations without taking enforcement action. See: www.usdoj.gov; www.ftc.gov.</p> <p>Comprehensiveness: The United States enforcement agencies continue to apply the antitrust laws to the broadest range of economic activity appropriate under the laws, and to re-evaluate the appropriateness of any exceptions to the coverage of the antitrust laws. The vast majority of the U.S. economy is subject to the federal antitrust laws. In many instances, the industries granted partial immunities or exemptions from the antitrust laws are regulated by specialized regulatory agencies with sector-specific rules that include competition rules analogous to the federal antitrust laws. The agencies continue their role as advocates of competitive outcomes in the regulatory reform process. The public hearings, workshops and reports described above, and in more detail in Chapter 8 of the U.S. IAP, are also important means of informing the federal agencies of the strengths and weaknesses of their enforcement policies and procedures with a view towards identifying areas for improvement, thereby ensuring effective and comprehensive enforcement of the federal antitrust laws. See also www.usdoj.gov/atr/events.htm; www.ftc.gov.</p> |

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| | <p>enforcement agencies to present evidence of alleged anticompetitive conduct in violations of the federal antitrust laws and to the courts to seek redress for alleged harm therefrom.</p> <p>Accountability: The federal antitrust agencies enforce the federal antitrust laws. Each agency is required by the Government Performance and Results Act (1993) to file a performance and accountability report that is submitted with the agency's budget request and is published annually. Both agencies are subject to Congressional oversight and report on their activities in connection with the approval of their budget request and in response to <i>ad hoc</i> Congressional requests.</p> <p>Comprehensiveness: The U.S.</p> | | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>applies the federal antitrust laws to the broadest range of economic activity appropriate under the laws, and re-evaluates the appropriateness of any exceptions to the coverage of the antitrust laws. The agencies advocate competitive outcomes in the regulatory reform process.</p> <p>The federal antitrust agencies enforce the antitrust laws to ensure U.S. markets are free of harmful unilateral and concerted anticompetitive activity. Also both agencies promote competition through a wide variety of policy tools that complement their enforcement activities to provide leadership on significant antitrust issues.</p> | | |
| (3) International cooperation on Competition law/policy | The United States has always been a strong advocate of effective cooperation in the enforcement of competition law | The United States continues to be a strong advocate of effective cooperation in the enforcement of competition law | In addition to the agreements, and the participation in the international fora noted in the preceding column, the United States maintain an active program of technical assistance, sending short and long-term advisors to and receiving |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>and policy. In 1996, the United States had bilateral cooperation agreements with Germany, Australia, Canada and the European Communities, and had recently enacted legislation that allowed for greater cooperation pursuant to mutual antitrust assistance agreements.</p> <p>The United States participated actively in several international fora addressing competition policy issues, including:</p> <ol style="list-style-type: none"> 1. APEC Competition Policy and Deregulation Group, 2. The FTAA Negotiating Group on Competition Policy, 3. The OECD's Competition Committee, 4. The UNCTAD Interagency Group of Experts on | <p>and policy. After 1996, the United States entered into additional bilateral cooperation agreements with Israel, Japan, Brazil and Mexico, and a Memorandum of Understanding with Russia's Federal Antimonopoly Service. In 1999, the United States entered into a mutual antitrust assistance agreement with Australia.</p> <p>The United States continued to actively participate in the international competition policy fora listed in column 2 (except the defunct FTAA Negotiating Group) and the International Competition Network created in 2001.</p> | <p>interns from various developing economies.</p> <p>Further, the U.S. SAFE WEB Act, enacted in 2006, permits staff exchanges between the FTC and foreign government authorities by allowing foreign visitors to the FTC to be appointed temporarily as special FTC employees. Special employees can participate in FTC investigations and enforcement actions, with access to non-public FTC materials.</p> |

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| | <p>Competition Policy, and</p> <p>5. The WTO Working Group on the Interaction between Trade and Competition Policy.</p> <p>The United States also complied with the terms of OECD's revised 1995 Recommendation on cooperation between member countries on anticompetitive practices affecting international trade, and also followed the notification practice called for by that Recommendation in certain situations involving non-OECD economies.</p> | | |
| 9. Government Procurement | | | |
| (1) Increasing transparency of laws, regulations, bidding system, and how to determine bidding qualifications and bid winners | The primary goal of U.S. procurement policy is to obtain the most advantageous goods and services for the government while promoting full and open competition through a fair and | The United States will continue to examine ways to increase transparency and access to information on procurements. In particular, advances in information | The U.S. procurement system is transparent and predictable. The United States provides national treatment to its partners in the WTO Government Procurement Agreement (GPA), the North American Free Trade Agreement (NAFTA) and other Free Trade Agreements (FTAs) that include commitments for procurement covered |

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| | <p>transparent process. The Competition in Contracting Act (CICA) and the Federal Acquisition Regulation (FAR) System codify uniform policies and procedures for acquisition by almost all U.S. executive agencies. The FAR System consists of the FAR and agency acquisition regulations that implement or supplement the FAR. The FAR limits agency acquisition regulations to those necessary to implement FAR policies and procedures within an agency, and provides for coordination, simplicity, and uniformity in the USG acquisition process. The emphasis is on ensuring predictability and transparency throughout the process.</p> <p>The following procurement procedures are used: Simplified acquisition procedures, negotiated</p> | <p>technology hold promise for transmitting information on procurement opportunities around the globe instantaneously. The United States will continue to seek to enhance the databases available through the APEC Government Procurement Homepage.</p> <p>In 2007, the United States introduced two new websites to enhance the transparency of government procurement information in the United States. The Federal Procurement Data System (FPDS) provides a comprehensive mechanism for assembling, organizing, and presenting contract placement data for the Federal Government. It is accessible at https://www.fpds.gov. “Acquisition Central” is a new web site for the Federal acquisition community and the</p> | <p>by those agreements. Thirty-seven states are covered by the GPA. The United States provides the same non-discriminatory treatment to all least developed country suppliers. Although restrictions may apply to procurement not covered by those agreements, all suppliers can make informed decisions on participating in a particular procurement and assess their chances of obtaining a contract award. The United States supports and implements the APEC non-binding principles on government procurement and the transparency standards on government procurement. The information presented below applies only to procurement by U.S. federal government agencies, except where express reference is made to state government procurement.</p> |

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| | <p>procurement procedures, and sealed bid procedures. Simplified acquisition procedures can be used whenever the value of the items is expected to be under \$100,000. Sealed bids are used when the award will be made on the basis of price. A contract awarded using other than sealed bidding procedures is a negotiated contract and is generally used when the evaluation includes factors other than cost and discussions are necessary to understand offerors' proposals, while maintaining a process designed to foster an impartial and comprehensive evaluation of offerors' proposals leading to selection of the proposal representing the best value to the government.</p> <p>The CICA requires that criteria for award of a contract be set</p> | <p>government's business partners to access shared systems and acquisition tools. It is accessible at http://acquisition.gov/.</p> <p>In 2008, the process for reporting contract actions by contracting personnel to the Federal Procurement Data System (FPDS) was revised to establish FPDS as the single authoritative source of all procurement data for a host of applications and reports. Contracting officers are required to verify the accuracy of contract award data prior to reporting the data in FPDS.</p> <p>With regard to "Bid Protest Information," the Government Accountability Office's 2009 edition of its publication "Bid Protests at GAO: A Descriptive Guide", is accessible at http://www.gao.gov/decisions/</p> | |

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| | <p>out in the solicitation. When an agency changes the criteria, it must advise the offerors. It must also use the same bid deadlines for all offerors. Where the procurement is conducted by negotiation, unsuccessful offerors may request, in writing, debriefings from the contracting officer. Where sealed bidding is used, the unsuccessful offeror will be notified in writing of the number of bidders and the total contract price of the items in the award.</p> <p>To further promote transparency, data on government procurement contracts are captured and reported publicly by the Office of Federal Procurement Policy in the Office of Management and Budget. The FAR requires that most procurement opportunities over \$25,000 be</p> | <p>bidpro/bid/d09417sp.pdf.</p> <p>The Consolidated Appropriations Act of 2008 established a permanent Board within the GAO to consider appeals involving contracts with legislative branch agencies. Also, the GAO amended its bid protest regulations to enable GAO to hear protests of Transportation Security Administration procurements and authorize GAO to hear protests of the issuance or proposed issuance of certain task and delivery orders under certain contracts after May 27, 2008.</p> <p>The Federal Acquisition Regulation (FAR) has been amended:</p> <ul style="list-style-type: none"> • To reduce the burden on contractors that provide commercially available | |

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| | <p>published, evaluation criteria be made public, technical specifications be performance-based to the extent possible, and contracts be awarded strictly on the basis of the stated evaluation criteria.</p> | <p>off-the-shelf (COTS) EPA-designated products that contain recovered materials and contractors that provide construction material. The rule also waived the components test of the Buy American Act (41 U.S.C. 10a and 10b) for end products that are COTS items manufactured in the United States.</p> <ul style="list-style-type: none"> To require that annual reviews by executive agency competition advocates be provided in writing to both the agency senior procurement executive and the agency chief acquisition officer, and ensure task and delivery orders over \$1,000,000 issued under multiple award contracts are properly planned, issued, and comply with | |

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| | | <p>the relevant regulations. The rule provides for one of several initiatives to reinforce the use of competition and related practices for achieving a competitive environment. The rule reinvigorates the role of agencies' competition advocates, strengthens agencies' competition practices, and ensures best value for the taxpayer.</p> <ul style="list-style-type: none"> • To revise the contractor performance information process to ensure that the FAR clearly reflects the use of the Government-wide performance information repository, Past Performance Information Retrieval System (PPIRS) at http://www.ppirs.gov; requires the evaluation of past performance for orders | |

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| | | <p>exceeding the simplified acquisition threshold placed against Federal Supply Schedule contracts, or under a task order or delivery order against a contract awarded by another Federal agency (i.e. Government-wide acquisition contract or multi-agency contract); recommends past performance information for orders under single agency contracts; and consolidates the collection of past performance guidance.</p> <ul style="list-style-type: none"> • To add five new designated countries: Costa Rica under the Dominican Republic-Central America-U.S. Free Trade Agreement on Jan. 1, 2009; Oman under the U.S.-Oman Free Trade | |

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| | | <p>Agreement on Jan. 1, 2009; Peru under the U.S.-Peru Trade Promotion Agreement on Feb. 1, 2009; Chinese Taipei upon its accession to the WTO Government Procurement Agreement on July 15, 2009; and Liberia as a Least-Developed Country (and remove Cape Verde because it is no longer designated as an LDC by the United Nations).</p> <ul style="list-style-type: none"> To require use of the Electronic Products Environmental Assessment Tool (EPEAT) when acquiring personal computer products such as desktops, notebooks (also known as laptops) and monitors. | |
| (2) Restrictions on foreign goods, services or suppliers, or | Some restrictions apply on foreign goods, services or | Some restrictions apply on foreign goods, services or | |

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| preferences to domestic suppliers | suppliers, or preferences to domestic suppliers. See non-discrimination sections for details. | suppliers, or preferences to domestic suppliers. See non-discrimination sections for details. | |
| (3) Reciprocity requirements in providing access to government procurement markets | Existing reciprocity requirements in providing access to government procurement markets. | Existing reciprocity requirements in providing access to government procurement markets. | |
| (4) Consistency with the APEC Non-binding Principles on Government Procurement | <p>The United States is consistent with all of the APEC Non-binding Principles on Government Procurement.</p> <p><u>Value for Money:</u> FAR 15.1 was rewritten in 1996 to allow an agency to obtain best value in negotiated acquisitions by using any one or a combination of source selection approaches. In different types of acquisitions, the relative importance of cost or price may vary. For example, in acquisitions where the requirement is clearly definable</p> | | |

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| | <p>and the risk of unsuccessful contract performance is minimal, cost or price may play a dominant role in source selection. The less definitive the requirement, the more development work required, or the greater the performance risk, the more technical or past performance considerations may play a dominant role in source selection.</p> <p><u>Open and Effective Competition:</u> Two statutes require public notice in the Commerce Business Daily (CBD): 15 U.S.C. 637(c) and 41 U.S.C. 416. Generally, the CBD notice must be published 15 days before issuance of the solicitation. The solicitation must allow at least 30 days response time. However, the response time is a function of the procurements complexity. Consequently, in some</p> | | |

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| | <p>procurement cases, the response will be greater than 30 days.</p> <p><u>Accountability and Due Process:</u> An interested party that is an actual or potential offeror, including non-U.S. entities, can file a protest with the GAO relating to: (a) a solicitation or other request by an agency for offers for a procurement of goods or services; (b) the cancellation of the solicitation or other request; (c) an award or proposed award of a contract; (d) a termination or cancellation of an award of the contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract. The GAO issues its decision on a protest within 100 days from date of filing of the protest, or within 65 days under</p> | | |

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| | <p>the express option. In most cases, the procurement will be suspended while the GAO reviews the protest. (See the “Fair Dealing” section for additional information.) For issues that arise under a contract, the contractor and agency are encouraged to resolve their differences through alternative dispute resolution. A contractor also has the option of filing a claim with the contracting officer or a suit in federal court. State entities are generally subject to similar challenge procedures administered by oversight agencies or state courts.</p> <p><u>Fair Dealing</u>: CICA and the FAR prohibit agencies from unnecessarily restricting competition through manipulation of technical specifications. As a general rule, CICA and the FAR allow</p> | | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>agencies to include restrictive specifications in solicitations only to the extent the specifications are needed to meet the agency's legitimate needs. Solicitations must clearly state how offers will be evaluated. (See the "Transparency" section for additional information.)</p> <p>GAO, through its bid protest function, provides a forum for offerors to raise concern about unfair treatment, such as allegations that an agency has displayed bias in its actions, included unduly restrictive specifications in a solicitation or failed to provide a solicitation or solicitation amendment to the protesting firm, upon request. GAO's bid protest process holds agencies to a standard of fair dealing that goes beyond the specific requirements of CICA and the FAR. For example, in</p> | | |

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| | <p>negotiated procurements, agencies must treat offerors fairly during negotiations. Even in the highly streamlined procedures governing purchases from the Federal Supply Schedule, GAO routinely holds that agencies must act fairly and equitably in any procurement that they conduct.</p> <p><u>Non-Discrimination:</u> As noted above, ensuring fully open and competitive tendering is the fundamental principle of the U.S. procurement system. At the same time, U.S. law and policy restricts participation by foreign suppliers whose governments have not agreed to provide procedural safeguards and comparable market access opportunities for U.S. suppliers in their government procurement markets. This purchasing prohibition in the Trade Agreements Act of 1979,</p> | | |

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| | <p>as amended, may be waived for suppliers of any government that agrees to provide such safeguards and access for U.S. suppliers.</p> <p>Other restrictions apply to procurement of certain goods. The Federal Buy American Act of 1933 (41 U.S.C. 10 <i>et seq.</i>) establishes preferences for procurement of domestic goods. These general preferences are waived for parties to the GPA, NAFTA, and other FTAs for procurements valued above the applicable thresholds. The Small Business Act requires that certain contracts be set aside for small and minority-owned businesses (including small businesses in historically under-utilized business zones, service-disabled veteran-owned small businesses, and Small Business Act Sec. 8(a) participants). Under the GPA,</p> | | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | 37 states have committed to conduct procurements of listed entities in accordance with the GPA's non-discrimination and procedural requirements. | | |
| (5) Introduction of electronic means for government procurement | Electronic means of government procurement not introduced. | In recent years, the United States has instituted electronic means of government procurement. CICA and the FAR require that procurement opportunities over \$25,000, with few exceptions, be published in the FedBizOpps (http://www.fedbizopps.gov/). FedBizOpps contains links to specific tender documentation, including technical specifications, which can be downloaded directly from the Internet. CICA and the FAR require certain information to be included in the synopses. The description of the supplies or services must include the following information: quantity; size, dimensions, or | |

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| | | <p>other form, fit or functional description; destination information; delivery schedule; qualification requirements; duration of the contract period. For contracts over \$25,000, contracting offices must include a description of the procedures to be used in awarding the contract. The CICA and FAR require that award of contract be made by written notice, which may include electronic communications. Unsuccessful offerors must be notified of the award decision.</p> <p>Agencies are required to make available for public inspection within 14 days after contract award the justification and approval documents for non-competitive awards on the website of the agency and at the Government-wide Point of Entry (www.fedbizopps.gov). In</p> | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | <p>certain cases, the justification is required to be posted within 30 days after contract award. Contracting officers are required to carefully screen all justifications for contractor proprietary data and remove all such data, and such references and citations as are necessary to protect the proprietary data, before making the justifications available for public inspection.</p> <p>In April 2008, the latest version of the Government-wide Point of Entry (GPE) system was launched. This version incorporates the capabilities of Federal Technical Data Solution (FedTeDS) System, which was used to post on-line technical data packages and other items associated with solicitations that required some level of access control. With the new GPE system, FedTeDS has been retired.</p> | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| 10. Deregulation/ Regulatory Reform | | | |
| (1) Reviews of existing regulations | Some | Some | <p><u>On January 20, 2009, Chief of Staff Rahm Emanuel issued a memorandum on “Regulatory Review.”</u> The memorandum was issued so that President Obama’s appointees had the opportunity to review and approve any new or pending regulations. Specifically, it gave the following instructions to agencies:</p> <ol style="list-style-type: none"> 1. No proposed or final regulation should be sent to the Federal Register (the “OFR”) for publication unless it has been reviewed and approved by an appointee of the President, subject to any exceptions for emergency situations or other urgent circumstances relating to health, safety, environmental, financial, or national security matters. 2. Withdraw from the OFR all proposed or final regulations that have not been published in the <u>Federal Register</u> so that they can be reviewed and approved by a department or agency head. 3. Consider extending for 60 days the effective date of regulations that have been published in the <u>Federal Register</u> but not yet taken effect, for the purpose of reviewing questions of law |

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| | | | and policy raised by those regulations. |
| (2) Reviews of new or proposed regulations | Most | Most | Executive Order No. 12866 requires agencies, with the exception of the “independent” agencies (see 44 U.S.C. 3501(10) for definition of an independent agency), to submit to the Office of Management and Budget (OMB) for review, before publication in the Federal Register for notice and comment, and once again after notice and comment before it is published in final form, all “significant regulatory actions”. “Significant regulatory actions” are regulations that may: (1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles of this Executive Order. OMB designates all rules as either not “significant” or “significant”. OMB formally reviews about 500-700 significant rules under E.O. 12866 per year. |
| (3) Consistency with APEC | All | All | In a January 30, 2009, Memorandum for the Heads of |

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| Principles to Enhance Competition and Regulatory Reform | | | <p>Executive Departments and Agencies, President Obama directed the Director of OMB to produce a set of recommendations for a new Executive Order on Federal regulatory review. Among other things, he stated that the OMB recommendations should offer suggestions for the following:</p> <ol style="list-style-type: none"> 1. the relationship between the Office of Information and Regulatory Affairs (OIRA) and the agencies; 2. disclosure and transparency; 3. encouraging public participation in agency regulatory processes; 4. the role of cost-benefit analysis; 5. the role of distributional considerations, fairness, and concern for the interests of future generations; 6. methods of ensuring that regulatory review does not produce undue delay; 7. the role of the behavioral sciences in formulating regulatory policy; and 8. the best tools for achieving public goals |

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| | | | <p>through the regulatory process.</p> <p>President Obama also made the following statement regarding centralized regulatory review:</p> <p>“For well over two decades, the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) has reviewed Federal regulations. The purposes of such review have been to ensure consistency with Presidential priorities, to coordinate regulatory policy, and to offer a dispassionate and analytical “second opinion” on agency actions. I strongly believe that regulations are critical to protecting public health, safety, our shared resources, and our economic opportunities and security. While recognizing the expertise and authority of executive branch departments and agencies, I also believe that, if properly conducted, centralized review is both legitimate and appropriate as a means of promoting regulatory goals.”</p> |
| (4) Improving transparency in regulatory regimes | The Office of Information and Regulatory Affairs (OIRA) is a Federal office that Congress established in the 1980 Paperwork Reduction Act. It is part of the Office of Management and Budget, which | On January 21, 2009, President Obama issued a Memorandum on “Transparency and Open Government.” The memo reaffirmed the Administration's commitment to innovation in government, and called for the | After soliciting recommendations from agencies and the public, OMB issued its Open Government Directive on December 8, 2009. Among other things, the Directive requires agencies to take prompt steps to publish government information online. It requires them to consult with the public and open-government experts during the formation of open government plans, to |

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| | <p>is an agency within the Executive Office of the President. In addition to reviewing collections of information under the Paperwork Reduction Act, OIRA reviews draft regulations under Executive Order (EO) 12866 and develops and oversees the implementation of government-wide policies in the areas of information technology, information policy, privacy, and statistical policy. OIRA also oversees agency implementation of the Information Quality Law, including the peer review practices of agencies.</p> <p>EO 12866, issued in September 1993, also significantly expanded the disclosure requirements governing OIRA's centralized review of draft agency rules. These requirements included making</p> | <p>development of recommendations for a Directive to be issued by OMB.</p> | <p>solicit input from the public about which information to prioritize for publication, and to maintain an ongoing dialogue with the public during the entire process.</p> <p>Moving beyond the actions in the Osaka Action Agenda (OAA), the Obama administration believes that regulatory analysis should be developed and designed in a way that supports the commitment to open government. Modern technologies, such as the United States' "e-Rulemaking process", should be enlisted to promote that goal. Existing websites -- regulations.gov and reginfo.gov -- have been improved to increase transparency, participation, and collaboration.</p> |

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| | <p>public a list of all regulatory actions under formal OMB review. The list provides the agency, title, stage of rulemaking (e.g., proposed or final), and date received by OMB. In addition, stakeholders can request to meet with OMB during review of a draft rule. OMB's policy has been to meet with any party outside of the Executive Branch interested in discussing issues. OIRA makes publicly available all substantive communications with any party concerning regulations under review, including the participants, date, and subject of all meetings with outside parties. After a rule is published, OIRA will also make publicly available certain documents exchanged between OIRA and the rulemaking agency during the review period.</p> | | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | Since 1997, OIRA has issued a report to Congress on the costs and benefits of federal regulations. | | |
| 11. WTO Obligation/ Rules of Origin | | | |
| (1) WTO/UR Agreements not yet fully implemented | <p>WTO Agreement, Annex IA (Goods)</p> <p>Tariffs</p> <p><i>Industrial</i></p> <p>Before the UR, the United States bound 99.3 percent of its tariff schedule at a trade-weighted average rate of 5.3 percent. After meeting its UR industrial market access commitments, the U.S. trade-weighted tariff average for all industrial items will be 3.5 percent, and the scope of bindings will increase to 99.8 percent. The United States agreed to completely eliminate tariffs in ten</p> | <p>WTO Agreement, Annex IA (Goods)</p> <p>As of January 1, 2005, the United States has fully implemented its WTO commitments from the Uruguay Round with respect to tariffs, agriculture, and textiles, including quotas on imports of textiles and apparel. The United States made changes to its domestic law to implement the Uruguay Round Agreements by enacting, on December 8, 1994, the UR Agreements Act (URAA). The UR Agreements went into effect for the United States on January 1, 1995. In addition, the United States has met all the</p> | <p>Not applicable. All relevant obligations implemented.</p> <p>In 2008, 69 percent of imports for consumption entered the United States duty-free. The U.S. simple MFN applied tariff average is 3.5 percent. These efforts have contributed to the substantial increase in trade and investment between the United States and other APEC economies. In 1996, U.S.-APEC total trade in goods and services was \$1.1 trillion increasing to \$2.3 trillion in 2008, an increase of 115 percent (<i>Note: Services trade data not available for Brunei Darussalam, Papua New Guinea, Peru, Russia, and Viet Nam</i>)</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>sectors: agricultural equipment, beer, construction equipment, brown distilled spirits, furniture, medical equipment, paper and paper products, pharmaceutical goods, steel, and toys. For toys and pharmaceuticals, tariffs were eliminated completely on January 1, 1995.</p> <p><i>Agricultural</i></p> <p>Under UR commitments, all agricultural tariffs were bound in 1995, and with the exception of in-quota rates in tariff-rate quotas (TRQ), all agricultural tariffs were reduced by an average of 36 percent over six years starting in 1995.</p> <p>Non-tariff Measures</p> <p><i>Textiles and Apparel</i></p> <p>The United States maintained</p> | <p>notification requirements of the various WTO Agreements.</p> <p><i>WTO Agreement, Annex 1B (Services)</i></p> <p>As of January 1, 1995, the date of entry into force of the UR Agreement for the United States, the United States has implemented its obligations under the GATS. In addition, the United States has implemented subsequently negotiated commitments under the WTO Financial Services agreement, and the WTO Agreement on Basic Telecommunications Services.</p> <p>The United States' commitments in Basic Telecommunications, as noted above, came into force and were fully implemented in 1998. These commitments covered all basic services</p> | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>quantitative restrictions on imports of textiles and apparel, which it began to phase out in 1995 in accordance with the UR Agreement on Textiles and Clothing.</p> <p><i>Agricultural</i></p> <p>In implementing the UR Agreement on Agriculture, the United States converted existing quantitative restrictions on dairy products, sugar, sugar-containing products, peanuts, cotton, and beef to TRQs.</p> <p>Since it implemented its UR commitments in 1995, the United States has fully implemented its WTO commitments with respect to all WTO agreements, including the following:</p> <p><i>Safeguards</i></p> | <p>(except Direct-to-Home satellite services), in all modes and full adoption of the Reference Paper on Regulatory Principles.</p> <p><i>WTO Agreement, Annex 1C (IPR)</i></p> <p>Since 1995, the United States has fully implemented the TRIPs agreement and in some cases, affords higher levels of IPR protection than required under this agreement.</p> <p><i>WTO Plurilateral Agreements</i></p> <p>WTO Government Procurement Agreement: The United States has fully implemented its obligations under the WTO Government Procurement Agreement.</p> <p>WTO Information Technology Agreement: The United States</p> | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>The UR Agreement on Safeguards improved and expanded rules and procedures covering safeguard measures; ensures that safeguard measures are transparent, temporary, digressive, and subject to review and termination when no longer justified; and requires notification and monitoring of import relief actions for domestic industries. As a result, the new rules prohibit actions such as Voluntary Restriction Agreements (VRA) that had proliferated in the 1970s and 1980s.</p> <p>The United States unilaterally phased out all of its Voluntary Restraint Agreements (VRAs) prior to the implementation of the UR Agreement on Safeguards. More specifically, in March 1992, the U.S. Government ended use of VRA's on steel, and in</p> | <p>has fully implemented its obligations under the WTO Information Technology Agreement.</p> <p><i>Other WTO Obligations</i> The United States is fully implementing its commitments under all WTO agreements from the Uruguay Round, including the agreements on safeguards, subsidies, countervailing duties, antidumping measures, TRIMs, TBT, and SPS.</p> | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>December 1993, on computer-controlled machine tools.</p> <p><i>Subsidies</i></p> <p>There has been no express need for liberalization in this area to implement the UR Agreement on Subsidies. However, the United States welcomed the strengthened subsidy disciplines agreed to as part of the Uruguay Round. As required in the UR Agreement on Agriculture, the United States will reduce both the quantity and the value of agricultural export subsidies by 21 and 36 percent, respectively, over six years. The quantity reductions started in July 1995 and the value reductions in October 1995.</p> <p>Because of reductions in domestic agricultural support programs made prior to 1995, the United States was not</p> | | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>required to make any changes to either domestic law or regulations in implementing the domestic support provisions in the UR Agreement on Agriculture.</p> <p><i>Countervailing Duties</i></p> <p>In the URAA, the United States adopted numerous changes to its domestic law to ensure compliance with the Uruguay Round Agreement on Subsidies and Countervailing Measures including the following:</p> <ol style="list-style-type: none"> 1. incorporation of a clear subsidy definition from the UR Agreement on Subsidies and Countervailing Duties; 2. the introduction of sunset review procedures; and | | |

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| | <p>3. the extension of an injury test to all countries which have undertaken the obligations of the Uruguay Round Agreement on Subsidies and Countervailing Measures</p> <p><i>Antidumping</i></p> <p>The United States, in the URAA, adopted a number of changes to its antidumping law to ensure compliance with the UR Agreement on Antidumping, including the following:</p> <ol style="list-style-type: none"> 1. new standards for determining whether dumping margins are de minimis; 2. sunset review procedures to ensure that antidumping duty remedies remain in place no longer than is | | |

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| | <p>necessary;</p> <p>3. expedited review procedures; and</p> <p>4. new methods for calculating profits in below-cost sales cases.</p> <p><i>Standards</i></p> <p>The United States has established an internal mechanism to fulfill its obligations under the Tokyo Round Agreement on Technical Barriers to Trade (TBT) and has recently strengthened that mechanism to meet the new obligations under the WTO's Agreements on TBT and Sanitary and Phytosanitary Measures (SPS). Interagency committees meet routinely to ensure that agencies developing new measures are aware of these obligations and that the</p> | | |

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| | <p>procedures for information exchange and transparency are functioning smoothly.</p> <p><i>TRIMs</i></p> <p>Current U.S. practices are fully consistent with the provisions of the UR TRIMs Agreement and were consistent even before the United States became a signatory to the Agreement.</p> <p><i>WTO Agreement, Annex 1B (Services)</i></p> <p>As of January 1, 1995, the date of entry into force of the WTO for the United States, the United States was in compliance with its obligations under the GATS. In addition, the United States has implemented subsequently negotiated commitments under the WTO Financial Services agreement, and the WTO agreement on</p> | | |

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| | <p>basic telecommunications services. The original commitments made under the GATS in 1995 included commitments on the following services:</p> <p><i>Business and Professional</i></p> <p>Under the GATS, the United States made commitments to provide market access and national treatment for legal services; accounting, auditing, and bookkeeping; taxation services; architectural services; engineering services; urban planning and landscape services; computer and related services; real estate services; rental and leasing services; advertising; market research and public opinion polling; and management consulting.</p> <p><i>Aircraft Repair and Maintenance</i></p> | | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>Under the GATS, the United States made commitments to provide market access and national treatment for aircraft repair and maintenance activities when undertaken on an aircraft or a part, while it is withdrawn from service.</p> <p><i>Tourism</i></p> <p>Under the GATS, the United States made commitments to provide market access and national treatment for convention services, hotels and restaurants (including catering); travel agencies and tour operators; tour guide services; other travel and tourism-related services; entertainment services; libraries, archives, museums and other cultural services; and other recreations services (except sporting).</p> | | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p><i>Telecommunications</i></p> <p>Under the GATS, the United States made commitments to provide reasonable and non-discriminatory access to and use of the public telecommunications network for a broad range of service providers from WTO members, including value-added (or "enhanced") telecommunications service providers. The United States bound open its value-added telecommunications services market to all WTO members.</p> <p><i>Audiovisual</i></p> <p>Under the GATS, the United States made commitments to provide complete market access and national treatment for motion picture and video tape production and distribution, motion picture projection</p> | | |

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| | <p>services, radio and television services, sound recording, and other audiovisual services. Radio and television transmission other than cable television is subject to certain quantitative limitations. A single company is barred from owning a combination of newspapers and/or broadcast stations serving the same local market. Radio and television licenses may not be held by foreign governments or companies. Foreign investment in, or management of, the parent of a U.S. broadcaster is limited to 25 percent, absent a determination that a greater percentage is in the public interest.</p> <p><i>WTO Agreement, Annex 1C (IPR)</i></p> <p>The United States provides for the protection and enforcement</p> | | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>of intellectual property rights in accordance with the Agreement on Trade-Related Aspects of Intellectual Property (TRIPs Agreement) and in some cases, affords higher levels of IPR protection than required under this Agreement.</p> <p><i>WTO Plurilateral Agreements</i></p> <p>WTO Government Procurement Agreement: As a signatory to the WTO Government Procurement Agreement (GPA), the United States extends commitments on transparency and national treatment to the goods, services and suppliers of the Parties to that Agreement in the conduct of federal government procurement covered by the GPA. In addition, 37 states have agreed to conduct their procurement in accordance with the GPA.</p> | | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| (2) Ensuring application of rules of origin in an impartial, transparent and neutral manner | Since the UR came into effect, U.S. customs procedures are in accord with the disciplines in the UR Agreement on Rules of Origin. Origin laws, regulations, and judicial and administrative rulings are published and publicly available. Interested parties may obtain rulings that bind U.S. Customs and Border Protection until revoked. U.S. customs rulings may only be revoked upon notice to the public. Changes in U.S. customs procedures are only made after notice to the public and not applied retroactively. Administrative and judicial reviews are available. Information that is by nature confidential is kept confidential upon request. | United States customs procedures are in accord with the disciplines in the UR Agreement on Rules of Origin. | <p>The United States continues to actively participate in the WTO Agreement's harmonization work program leading to harmonization of non-preferential rules of origin.</p> <p>The rules of origin regime of the United States adheres to the procedural disciplines relevant to the objective of ensuring impartiality, transparency and neutrality as laid out in the WTO Agreement on Rules of Origin, as well as through its notification to the WTO under the Agreement on Rules of Origin.</p> <p>In addition, the United States free trade agreements contain a chapter on the rules of origin which must be met in order to claim preferential treatment under the agreement. In almost all instances, self-certification for preferential treatment is available for importers.</p> <p>The United States, with six other APEC economies, is participating in the APEC Self-Certification of Origin Pathfinder, which was endorsed by APEC Ministers in November 2009.</p> |
| 12. Dispute Mediation | | | |
| Dispute mediation methods, process and bodies are available to | The United States has been a party to the Convention on the | The United States continues to pursue an approach to dispute | The United States has concluded Bilateral Investment Treaties, which include procedures on the settlement of |

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| foreign businesses | <p>Settlement of Investment Disputes Between States and Nationals of Other States (ICSID) since 1966. The ICSID Convention provides for facilities for the conciliation of investment disputes between Contracting States and individuals of Contracting States. In addition, the U.S. Government is also a party to the Inter-American Convention On International Commercial Arbitration of 1975 (the Panama Convention). The United States is also a member of the Convention Establishing the World Intellectual Property Organization (WIPO). WIPO provides specialized arbitration procedures for disputes concerning intellectual property rights. The United States is a member of the Permanent Court of Arbitration, which provides services for the resolution of disputes</p> | <p>mediation that is consistent with the Osaka Action Agenda, as well as its rights and obligations under the WTO, NAFTA and our other free trade agreements. The United States seeks the adoption of procedures to resolve disputes in an effective, timely, transparent, equitable and reasoned manner, requiring determinations based on facts and provisions of the relevant agreement with the goal of increasing compliance with such agreements.</p> | <p>investment disputes between governments and private entities, with a number of countries including Albania(1998), Argentina (1994), Armenia (1996), Azerbaijan (2001), Bahrain (2001), Bangladesh (1989), Bolivia (2001), Bulgaria (1994), Cameroon (1989), Congo, Democratic Republic (Kinshasha) (1989), Congo, Republic (Brazzaville) (1994), Croatia (2001), Czech Republic (1992), Ecuador (1997), Egypt (1992), Estonia (1997), Georgia (1997), Grenada (1989), Honduras (2001), Jamaica (1997), Jordan (2003), Kazakhstan (1994), Kyrgyzstan (1994), Latvia (1996), Lithuania (2001), Moldova (1994), Mongolia (1997), Morocco (1991), Mozambique (2005), Panama (1991), Amendment to Panama BIT (2000), Poland (1994), Romania (1994), Senegal (1990), Slovakia (1992), Sri Lanka (1993), Trinidad & Tobago (1996), Tunisia (1993), Turkey (1990), Ukraine (1996), Uruguay (2006).</p> <p>The United States has also implemented FTAs, which contain procedures for the settlement of investment disputes between governments and private entities, with a number of countries including Australia, Bahrain, Canada, Chile, Dominican Republic – Central America FTA (Costa Rica, Dominican Republic, El Salvador, Honduras, Mexico, Nicaragua, and Guatemala), Jordan, Morocco, Oman, Peru, and Singapore.</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>involving various combinations of states, state entities, intergovernmental organizations, and private parties. The United States is also party to regional and bilateral agreements including procedures on settlement of investment disputes between governments and private entities. The agreements involving APEC economies include the NAFTA and treaties of Friendship, Commerce, and Navigation (FCN) or Amity and Economic Relations with four APEC economies. In addition, the United States is party to a series of Bilateral Investment Treaties (BITs) which provide for settlement of disputes between private entities and governments party to the Treaty. We are in the process of negotiating additional BITs which could include provisions for dispute settlement. The</p> | | |

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| | <p>U.S. legal system permits private parties to pursue complaints against government actions in both judicial and administrative fora. In addition to statutory rights to sue the government, federal and state agencies often have internal offices and procedures through which individuals may pursue</p> <p>In addition to state, federal and municipal courts, there are numerous organizations in the United States that provide arbitration and mediation services for resolution of disputes between private parties. These include both general and specialized services.</p> | | |
| 13. Mobility of Business People | | | |
| (1) Number of visa free or visa waiver arrangements | <p>Two visa free arrangements</p> <p>Twenty-four Visa Waiver Pilot Program participants and one</p> | <p>Two visa free arrangements</p> <p>Thirty-five Visa Waiver Program participants</p> | The 9/11 Implementation Act of 2007 enhanced the security requirements of the Visa Waiver Program while allowing for more flexibility to designate additional countries. The Republic of Korea became an official member of the Visa |

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| | probationary member. | | Waiver Program November 2008. |
| Visa free or visa waiver arrangements with APEC member economies | <p>Visa free: Canada</p> <p>Visa Waiver Pilot Program: Australia (1995), Brunei (1993), Japan (1988), New Zealand (1991)</p> | <p>Visa free: Canada.</p> <p>Visa Waiver Program: Australia, Brunei, Japan, New Zealand, Republic of Korea (2008), Singapore (1999)</p> | |
| (2) Participation in the APEC Business Travel Card scheme | The ABTC scheme was trialed in 1996 to 1999. The U.S. did not participate in the trial. | The U.S. is a transitional member to the scheme. | The U.S. joined the ABTC scheme in 2007 as a transitional member. As a transitional member, the United States offers priority immigration processing lanes at ports of entry to all ABTC holders and expedited visa appointments at embassies and consulates overseas for those ABTC holders who require a visa to travel to the U.S. on business. Sixty percent of the responders to last year's ABTC Client Satisfaction Survey identified expedited processing at airports as their most important reason for using the ABTC. |
| (3) Other efforts to facilitate mobility of business people than the above | The United States developed the SENTRI program in 1995, the first of the Trusted Traveler programs. | The United States has developed additional Trusted Traveler programs: FAST, NEXUS, and Global Entry; established a paperless electronic application for a visa that is already in use at several consular posts in APEC | Customs and Border Protection (CBP) currently operates four Trusted Traveler programs: Secure Electronic Network Traveler Rapid Inspection (SENTRI), Free and Secure Trade (FAST), NEXUS, and Global Entry. Trusted Traveler programs are designed to expedite CBP processing for pre-approved, "low-risk," trusted travelers by providing dedicated inspection processes in the land, air, and marine environments. SENTRI began in 1995 and membership |

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| | | <p>economies in preparation for worldwide operation by early 2010; and, maintained a business visa facilitation program facilitating the issuance of visas to business travelers.</p> | <p>in the program is open to citizens of Mexico and the United States; Fast and Secure Trade (FAST) began in 2002 and membership in the program is open to citizens and permanent residents of Canada, Mexico and the United States; NEXUS began in 2002 and membership is open to citizens and residents of Canada and the United States; Global Entry began in 2008, and membership in the program is currently open to citizens and residents of the United States, and Dutch citizens. CBP is also involved in negotiations to expand Global Entry to citizens of additional countries.</p> <p>In January 2006, the Departments of Homeland Security and State began working together to improve the arrivals process for visitors to the United States. The Model Ports Initiative establishes a more efficient international arrivals process to facilitate and promote travel to the U.S. and present a welcoming experience to travelers while improving security.</p> <p>The Model Ports initiative is now nearly completed at the following airports: Atlanta, Boston, Dallas/Ft. Worth, Dulles, Chicago, Detroit, Ft. Lauderdale, Honolulu, Houston, Las Vegas, Los Angeles, Miami, Newark, New York (JFK), Orlando, Philadelphia, Sanford (FL), San Juan, San Francisco, and Seattle.</p> |

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| | | | <p>CBP continues to work in partnership with airport authorities, airlines and the travel industry to identify ways to more efficiently assist travelers through the entry process.</p> <p>As of October 26, 2006, any passport issued by a Visa Waiver Program (VWP) economy on or after this date must be an e-Passport for VWP travelers to be eligible to enter the United States without a visa. These e-Passports must comply with standards established by the International Civil Aviation Organization.</p> <p>The Electronic System of Travel Authorization (ESTA) was implemented in August 2008. ESTA is an automated system used to determine the eligibility of visitors to travel to the United States under the VWP and whether such travel poses any law enforcement or security risk.</p> <p>In November 2009 U.S. Customs and Border Protection launched a pilot program to automate the arrival/departure form for VWP travelers from Auckland, New Zealand to Los Angeles International Airport. The pilot will support the automation of the paper I-94W form for visitors to the United States who travel under the VWP with an approved travel authorization via ESTA.</p> <p>To facilitate the mobility of business persons, the United</p> |

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| | | | <p>States has at least one visa processing post in every APEC member economy to issue visas for <i>bona fide</i> applicants, including those who wish to enter the United States temporarily for business purposes.</p> <p>To decrease the wait time for visa appointments for travelers, building on best practices at several posts, all U.S. embassies and consulates have procedures to expedite the processing of business visas and are working closely with local American Chambers of Commerce in over 100 countries to expedite the visa process for <i>bona fide</i> business travelers.</p> |
| (4) Average time to approve for short term business visit visa | The U.S. did not compile statistics for average visa wait times as of 1996. | <p>Average wait times for interviews and processing are listed by individual visa processing post on the Department of State's website, http://travel.state.gov/visa/temp/wait/tempvisitors_wait.php. However, the data reports statistics for both short term business visas (B1) and tourist visas (B2) in one category ("Visitor Visas") because the same statutory authority (Section 101(a)(15)(B) of the</p> | <p>The piloting of the Consular Electronic Application Center (CEAC), through which an applicant for a non-immigrant visa applies electronically online, at several posts is nearly complete, and the process will be implemented at all U.S. posts early in 2010. This will further expedite scheduling of appointments and the completion of determinations of visa eligibility. CEAC is a stepping stone to the eventual adoption of an electronic visa for temporary visitors to the United States. Although, for several years, virtually all business travelers have been required to be interviewed and fingerprinted before visa issuance, the introduction of an enhanced identity verification process involving the collection of 10 fingerprints now enables the Department of State to</p> |

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| | | Immigration and Nationality Act) applies, and they often are issued as a combined B1/B2 visa. | authorize waivers of the interview and fingerprint requirements for visa applicants who have previously provided a set of 10 prints and meet other applicable criteria, a development which will further reduce the wait times for visa processing and interviews. |
| 14. Trade Facilitation | | | |
| (1) Consistency with APEC Principles on Trade Facilitation | -- | The United States has fulfilled all the APEC Principles on Trade Facilitation and continues to utilize the principles to promote trade facilitation. | Establishment of the Office of Trade (OT): On September 23, 2006, the CBP established the Office of Trade. OT directs the nation trade policy and national trade program functions of CBP and provides uniformity and clarity for the development of CBP's national strategy to facilitate legitimate trade. Through the use of effective commercial targeting, coordination with international partners and other agencies, partnerships with the importing community and trade associations, risk-based approaches to identifying and addressing trade issues and the full use of the legal tools and authorities available to CBP, OT strengthens CBP's ability to facilitate the flow of legitimate trade across U.S. borders while securing U.S. borders and protecting the American economy from unfair trade practices and illicit commercial enterprises. |
| (2) Implementation of Trade Facilitation Action and Measures (approved in 2002) | In 2004, the United States implemented over 15 actions in accordance with the implementation of the Trade Facilitation Action Plan 1 (TFAP 1). For a complete list | The United States continues to implement actions in accordance with the Trade Facilitation Action Plan 1 (TFAP 1). For a complete list of all actions and more detailed | |

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| | <p>of all actions and more detailed descriptions, please see the Individual Action Plans for the United States (www.apec-iap.org).</p> <p><u>Customs Procedures</u></p> <ol style="list-style-type: none"> 1. The US makes customs and other trade-related laws and regulations available in several ways, including Customs and Border Protection (CBP) website, booklets, brochures, and other documents. Customs practices are published in the <u>Federal Register</u> and the Customs Bulletin. The <u>Federal Register</u> is available on the Internet at www.access.gpo.gov. 2. CBP operates an efficient, flexible, modular automated system for paperless trading. The | <p>descriptions, please see the Individual Action Plans for the United States (www.apec-iap.org).</p> <p><u>Customs Procedures</u></p> <ol style="list-style-type: none"> 1. Since 2004, CBP has implemented a number of actions in its automated system for paperless trading to improve convenience and accessibility. The automated system provides for exchange of information between traders, carriers, and the government using a variety of protocols and formats including UN/EDIFACT. 2. CBP implemented a new infrastructure that replaced existing 800 dial-up service that supported the trade's interface to the Automated Commercial System (ACS) | |

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| | <p>automated system provides for exchange of information between traders, carriers, and the government using a variety of protocols and formats including UN/EDIFACT.</p> <ul style="list-style-type: none"> • Automated Commercial System (ACS) – an automated information system that tracks, controls, and processes goods imported into the United States. Qualified participants are able to file import data electronically and at present, over 96% of entries that are filed use ACS. • Automated Export System (AES) – information gateway through with trade and | <p>and Automated Export System (AES). This technology is known as the Virtual Private Network (VPN) Solution.</p> <ol style="list-style-type: none"> 3. The Automated Commercial Environment (ACE) is CBP’s system of record in virtually all of the more than 350 ports and other facilities bringing capabilities for automation and integration of data to most CBP trade processes. 4. On February 3, 2007, the United States implemented the HS2007 Nomenclature. 5. To assist U.S. Customs & Border Protection officers in detecting and interdicting the importation of IPR infringing goods, CBP has developed several web-based tools accessible | |

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| | <p>government agencies may exchange export data needed to ensure compliance with export laws while also facilitating trade.</p> <ul style="list-style-type: none"> • Automated Manifest System (AMS) – provides inventory control and release notification for air, sea, and rail carriers. It reduces reliance on paper documents and speed processing on manifest and waybill data. • Automated Clearinghouse permits electronic payment on customs obligations. • Established the Customs Modernization Office, | <p>to CBP employees.</p> <p><u>Standards</u></p> <p>6. The United States has four Mutual Recognition Agreements (MRAs) in operation and a number of other MRAs pending progress. <i>(For more information, see the Standards and Conformance section of this template).</i></p> <p>7. The National Institute of Standards and Technology (NIST) maintains <u>Standards.gov</u> containing information about federal agency use of standards for regulatory and procurement purposes.</p> <p><u>Business Mobility</u></p> <p>8. The U.S. Department of Homeland Security implemented and continues</p> | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>which will develop the Automated Commercial Environment (ACE).</p> <p>3. The United States allows ATA carnets to be used for the temporary admission of professional equipment, commercial samples, and advertising material.</p> <p>4. The United States provides an appeals process through Customs Regulation 19 CFR 174.12, which provides for importers to file protests in response to decisions made by CBP.</p> <p>5. The United States is a contracting party to The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade ("GATT/WTO</p> | <p>to expand an electronic entry-exit system, called US-VISIT (United States Visitor and Immigrant Status Indicator Technology). US-VISIT collects and shares information, including biometric identifiers on visitors to the United States. The US-VISIT expedites legitimate travelers, while making it more difficult for those intending to do harm to enter the United States.</p> <p>9. The United States joined the APEC Business Travel Card (ABTC) in 2007 as a transitional member. It offers priority immigration processing lanes at ports of entry to all ABTC holders and expedited bias appointments at embassies and consulates overseas for</p> | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | <p>Valuation Agreement).</p> <p>6. The United States is a contracting party to the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention).</p> <p>7. The United States is a contracting party to the International Convention on Harmonized Commodity Description and Coding System (“Harmonized System”). The Harmonized System forms the core of the U.S. tariff, the Harmonized Tariff Schedule of the United States.</p> <p>8. The CBP offers binding tariff classification rulings under Chapters 1-97 of the Harmonized Tariff</p> | <p>those ABTC holders who require a visa to travel to the United States on business.</p> <p>10. The United States has two visa free arrangements and a Visa Waiver Program with 35 participants.</p> <p>11. As of October 26, 2006, any passport issued by a Visa Waiver Program (VWP) economy on or after this date must be an e-Passport for VWP travelers to be eligible to enter the United States without a visa. These e-Passports must comply with standards established by the International Civil Aviation Organization.</p> <p>12. The Electronic System of Travel Authorization (ESTA) was implemented</p> | |

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| | <p>Schedule of the United States (HTSUS)</p> <p><u>Standards</u></p> <p>9. The United States has a transparent and open standards and regulatory system. Information on standards and technical regulations is publically available, and participation in standards development bodies is open to both U.S. and non-residents. Proposed standards and technical regulations are published in advance and an opportunity for comment from all interested parties – whether domestic or foreign – is provided. The United States has established inquiry points, as required under the WTO Agreement on Technical Barriers to Trade and the Agreement</p> | <p>in August 2008. ESTA is an automated system used to determine the eligibility of visitors to travel to the United States under the VWP and whether such travel poses any law enforcement or security risk.</p> <p>13. To facilitate the mobility of business persons, the United States has at least one visa processing post in every APEC member economy to issue visas for bona fide applicants, including those who wish to enter the United States temporarily for business purposes.</p> <p>14. Introduced an advanced passenger information system which pre-clears</p> | <p>In November 2009 U.S. Customs and Border Protection launched a pilot program to automate the arrival/departure form for VWP travelers from Auckland, New Zealand to Los Angeles International Airport. The pilot will support the automation of the paper I-94W form for visitors to the United States who travel under the VWP with an approved travel authorization via ESTA.</p> <p>To decrease the wait time for visa appointments for travelers, building on best practices at several posts, all U.S. embassies and consulates have procedures to expedite the processing of business visas and are working closely with local American Chambers of Commerce in over 100 countries to expedite the visa process for bona fide business travelers.</p> |

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| | <p>on the Application of Sanitary and Phytosanitary Measures. The U.S. publishes annual reports on inquiry point activities. In addition, most U.S. federal agencies have established home pages on the Internet to facilitate the distribution of information on their activities and regulatory requirements.</p> <p>10. The U.S. policy is to adopt international standards whenever possible and appropriate.</p> <p>11. The U.S. has completed the APEC Voluntary Action Plan for alignment of standards with international standards.</p> <p>12. The United States is a member and active participant in APEC</p> | <p>passengers to ensure faster clearance on arrival to destination.</p> <p>15. In January 2006, the Departments of Homeland Security and State began working together to improve the arrivals process for visitors to the United States. The Model Ports Initiative establishes a more efficient international arrivals process to facilitate and promote travel to the U.S. and present a welcoming experience to travelers while improving security.</p> <p>16. CBP continues to work in partnership with airport authorities, airlines and the travel industry to identify ways to more efficiently assist travelers through the entry process.</p> | <p>The Model Ports Initiative is now nearly completed at the following airports: Atlanta, Boston, Dallas/Ft.Worth, Dulles, Chicago, Detroit, Ft. Lauderdale, Honolulu, Houston, Las Vegas, Los Angeles, Miami, Newark, New York (JFK), Orlando, Philadelphia, Sanford (FL), San Juan, San Francisco, and Seattle.</p> |

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| | <p>standards-related activities, and in all key international and regional standards-related organizations, including the International Organization for Standardization (ISO), through the U.S. member body -- the American National Standards Institute (ANSI) and the International Electrotechnical Commission (IEC), through the U.S. National Committee (USNC).</p> <p>13. The United States employs a range of conformity assessment approaches and does not view mutual recognition arrangements as universally desirable. In fact, a number of U.S. programs (e.g., the National Voluntary Laboratory Accreditation</p> | <p>17. Visa information is available on the web, including through the APEC Business Travel Handbook and websites of the Department of State and U.S. embassies and consulates.</p> <p><u>Electronic Commerce</u></p> <p>18. In addition to Federal agencies' websites, the United States also operates a web-portal (www.usa.gov) to obtain information, conduct business, and access other government services.</p> <p>19. The United States has been strong supporter in the WTO of the internet tax moratorium</p> <p>20. E-Commerce FTA chapters now include additional</p> | |

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| | <p>Program, or NVLAP; and, the Nationally Recognized Testing Laboratory Program administered by the Occupational Safety and Health Administration) are open to direct participation by foreign-based conformity assessment bodies. In addition, a number of U.S. regulatory requirements are not predicated on third party certification. For some regulatory requirements, manufacturers and importers are allowed to declare a product's conformity to regulatory requirements. Such openness negates the need for MRAs as a mechanism for additional access to the U.S. market.</p> <p><u>Business Mobility</u></p> | <p>elements to promote e-commerce:</p> <ul style="list-style-type: none"> • Electronic authentication and electronic signatures, including prohibiting the denial of the legal validity of a signature solely on the basis that the signature is in electronic form • Promoting online consumer protection, including cooperation between each Party's national consumer protection enforcement agencies in appropriate cases of mutual concern in the enforcement of laws against fraudulent and deceptive commercial practices in e-commerce. | |

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| | <p>14. Developed standards for a) travel documentation; b) professional services; c) travel document security (and issuance systems); and d) immigration legislation</p> <p>15. The U.S. Visa Waiver Program enables citizens of certain countries to travel to the United States for tourism or business for 90 days or less without obtaining a visa. Starting October 26, 2004, each Visa Waiver Program traveler must present a machine-readable passport at the U.S. port of entry to enter the U.S. without a visa.</p> <p>16. To facilitate the mobility of business persons, the United States has at least one visa processing post in every APEC member</p> | <ul style="list-style-type: none"> • Promoting paperless trading, including efforts to accept trade administration document submitted electronically as the legal equivalent of the paper version of those documents • Promoting transparency by making publishing or otherwise making available its laws, regulations, and other measures of general application that pertain to e-commerce <p>21. The United States continues to be an active participant in the APEC E-Commerce Steering Group and is a member of the APEC Data Privacy Pathfinder initiative.</p> | |

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| | <p>economy. The United States provides visas in several categories for bona fide applicants who wish to enter the United States temporarily for business purposes.</p> <p>17. Streamlined arrangements for intra-company transferees in accordance with the agreed APEC 30-day processing standard</p> <p>18. The Immigration and Nationality Act provides several categories of nonimmigrant visas for a person who wishes to work temporarily in the United States.</p> <p>19. The United States promptly publishes or otherwise makes available through readily accessible, widely available media information</p> | | |

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| | <p>on its “immigration measures”. Various websites include: www.uscis.gov, www.cbp.gov, www.state.gov, www.immigration.gov and www.unitedstatesvisas.gov. Information can be obtained from the various U.S. Embassies and Consulates around the world. Information can also be located on the BMG website through the APEC Travel Handbook.</p> <p>20. The United States is an active participant in the APEC Business Mobility Group, including capacity building meetings, discussions and initiatives and participation in conferences and seminars where information regarding business mobility</p> | | |

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| | <p>is presented and discussed.</p> <p>21. To further public understanding, the U.S. meets regularly with business groups and organizations, their representatives and others in the business community on issues related to business mobility and business temporary residency.</p> <p><u>Electronic Commerce</u></p> <p>22. The E-Government Act of 2002 provided a significant step forward in the way that Federal agencies use information technology (IT) to transform agency business into a more citizen oriented and user friendly process.</p> <p>23. Since 2004, the United States has incorporated e-commerce chapters in its</p> | | |

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| | <p>FTAs, which recognize the economic growth and opportunity provided by e-commerce and the importance of avoiding unnecessary barriers to its use and development. Included in the e-commerce chapter are the following articles:</p> <ul style="list-style-type: none"> • The treatment of electronic supply of services • Prohibition on application of customs duties on digital products of the other Party • Non-discriminatory treatment for digital products • Technology-neutral authentication and | | |

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| | <p>digital signatures</p> <p>24. The importance of cooperation to overcome obstacles for small and medium-sized enterprises in the use of e-commerce and the sharing of information and experiences on regulations, laws, and programs relevant in the sphere of e-commerce</p> <p>25. The United States is an active participant in the APEC E-Commerce Working Group</p> | | |
| 15. Promotion of High-Quality RTAs/FTAs | | | |
| (1) Number of RTAs/FTAs concluded/signed | 2 (NAFTA is counted as a single agreement) | 15 (NAFTA and CAFTA-DR are counted as single agreements. The United States has signed FTAs with Colombia, Korea | |

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| | | and Panama, but Congress must enact legislation to approve and implement each individual agreement in order for them to go into effect.) | |
| RTAs/FTAs concluded/signed with APEC member economies | NAFTA | Australia, NAFTA, Chile, Peru, Singapore | |
| (2) Number of RTAs/FTAs under negotiation | None | Malaysia (status being reviewed) | In December 2009, the United States announced its intention to enter into negotiations of a regional, Asia-Pacific trade agreement, known as the Trans-Pacific Partnership (TPP) Agreement with the objective of shaping a high-standard, broad-based regional pact. |
| RTAs/FTAs being negotiated with APEC member economies | Not applicable | | |
| (3) Consistency with APEC Model Measures for RTAs and FTAs | Fully consistent | Fully consistent | |
| 16. Voluntary Self-Reporting | | | |
| (1) Other Efforts in Support of the Bogor Goals: Measures on Labor | <u>(I) Measures to provide for effective enforcement of fundamental labour rights.</u> The North American Agreement on Labor Cooperation (NAALC) between Canada, | <u>(I) Measures to provide for effective enforcement of fundamental labour rights.</u> As of May 2007, all FTAs negotiated by the United States include a binding obligation to | <u>(I) Measures to provide for effective enforcement of fundamental labour rights.</u> Moving beyond the OAA, the United States and many of its FTA partners have recognized the importance of fundamental labor rights as an integral factor in promoting free and open trade and investment. |

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| | <p>Mexico and the United States is a supplementary accord to the NAFTA, and entered into force in January 1994.</p> <p>The NAALC includes specific measures on effective enforcement of labor rights:</p> <p>“Each Party shall promote compliance with and effectively enforce its labor law through appropriate government action.”</p> <p>Labor laws in the NAALC are defined as eleven areas of labor legislation and regulations, including:</p> <ol style="list-style-type: none"> 1. freedom of association and protection of the right to organize; 2. the right to bargain collectively; 3. the right to strike; | <p>adopt and maintain laws that reflect the rights and principles in the ILO Declaration on Fundamental Principles and Rights at Work of 1998. The U.S.-Peru FTA is the first agreement under this model to enter into force (January 2009).</p> <p>Prior to 2007, free trade agreements between the United States and Australia, Chile, and Singapore (as well as Peru) all have Labor Chapters as integral parts of the agreement.</p> <p>All of the FTAs include the following obligation on enforcement of labor rights, which is subject to dispute settlement:</p> <p>“A Party shall not fail to effectively enforce its labor laws, through a sustained or recurring course of action or inaction, in a manner affecting</p> | <p>The United States-Peru free trade agreement set a new standard for commitments on fundamental labor rights. The FTA with Peru (and also those pending with South Korea, Colombia and Panama) includes an obligation that each Party:</p> <p>“adopt and maintain in its statutes and regulations, and practices thereunder, the following rights, as stated in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998) (ILO Declaration):</p> <ol style="list-style-type: none"> (a) freedom of association; (b) the effective recognition of the right to collective bargaining; (c) the elimination of all forms of compulsory or forced labor; (d) the effective abolition of child labor and, for purposes of this Agreement, a prohibition on the worst forms of child labor; and (e) the elimination of discrimination in respect of employment and occupation.” <p>This provision represents the first instance in an international trade agreement where the Parties agree to a binding obligation to adopt and maintain international labor standards in their laws and practices. This obligation is</p> |

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| | <p>4. prohibition of forced labor;</p> <p>5. labor protections for children and young persons;</p> <p>6. minimum employment standards, such as minimum wages and overtime pay,</p> <p>7. elimination of employment discrimination</p> <p>NAALC obligations are subject to ministerial consultations between the Parties and formal dispute settlement in certain instances.</p> | <p>trade between the Parties, after the date of entry into force of this Agreement.”</p> <p>Labor laws in these FTAs are defined as related to the following rights:</p> <ol style="list-style-type: none"> 1. the right of association; 2. the right to organize and bargain collectively; 3. a prohibition on the use of any form of forced or compulsory labor; 4. a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor; and 5. acceptable conditions of work with respect to minimum wages, hours of work, and occupational | <p>also the first of its kind that is subject to the same dispute settlement and remedies as all other commercial issues in the trade agreement.</p> |

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| | | <p>safety and health.</p> <p>[Note: The U.S. Peru FTA also includes the following topic in the list of labor laws: The elimination of discrimination in respect of employment and occupation.]</p> <p>These FTAs also include an obligation to not waive or derogate from labor laws to attract trade or investment.</p> | |
| | <p><u>(II) Measures to provide for procedural guarantees and transparency for judicial proceedings related to fundamental labour rights.</u></p> <p>The NAALC contains the following obligations for procedural guarantees:</p> <ol style="list-style-type: none"> 1. Commitment to provide appropriate access to administrative, | <p><u>(II) Measures to provide for procedural guarantees and transparency for judicial proceedings related to fundamental labour rights.</u></p> <p>U.S. FTAs with Australia, Chile, Peru and Singapore all contain obligations regarding the provision of procedural guarantees and transparency for judicial proceedings.</p> | |

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| | <p>quasi-judicial, judicial or labor tribunals for the enforcement of the Party's labor law.</p> <ol style="list-style-type: none"> 2. Commitment that proceedings are fair, equitable and transparent. 3. Commitment to provide for appropriate remedies (such as fines) to ensure the enforcement of labor rights. | <p>These FTAs include the following basic commitments:</p> <ol style="list-style-type: none"> 1. Appropriate access to administrative, quasi-judicial, judicial, or labor tribunals for the enforcement of the Party's labor laws. 2. Fair, equitable and transparent proceedings. 3. Availability of remedies (such as fines) to ensure the enforcement of labor rights. | |
| | <p><u>(III) Public awareness about fundamental labour rights.</u></p> <p>The NAALC includes commitments on public awareness of labor rights:</p> <ol style="list-style-type: none"> 1. Ensuring that labor laws and regulations are promptly published and made | <p><u>(III) Public awareness about fundamental labour rights.</u></p> <p>U.S. FTAs with Australia, Chile, Peru and Singapore all contain similar commitments regarding the promotion of public awareness about labor rights, including:</p> | |

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| | <p>available to the public.</p> <p>2. Promoting public awareness of domestic labor laws, including by ensuring that public information is available related to labor laws and enforcement, and</p> <p>3. By promoting public education regarding labor laws.</p> | <p>1. Promotion of public awareness of domestic labor laws by ensuring that information is publicly available regarding enforcement and compliance procedures.</p> <p>2. Availability of information through various means, including: official notices and the mass media, publishing and distributing information manuals, undertaking compliance assistance programs, conducting meetings, and via the Internet.</p> | |
| | <p><u>(IV) International cooperation on fundamental labour rights.</u></p> <p>The NAALC established the Commission for Labor Cooperation to promote international cooperation between the Parties on labor</p> | <p><u>(IV) International cooperation on fundamental labour rights.</u></p> <p>U.S. FTAs with Australia, Chile, Peru and Singapore all establish cooperation mechanisms to carry out activities on labor rights issues</p> | <p><u>(IV) International cooperation on fundamental labour rights.</u></p> <p>Through the U.S.-Peru FTA labor cooperation mechanism, the United States is supporting Peru's efforts to increase the capacity of its labor ministry to enforce labor laws. A \$3 million project funded by the U.S. Agency for International Development is supporting labor law compliance as well as</p> |

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| | rights issues. The Commission is formed of a Council of Ministers, a cabinet-level body in charge of policy-setting and decision-making consisting of the three labor ministers or their representatives; and a tri-national Secretariat that provides support to the Council and to the independent Evaluation Committees of Experts and Arbitral Panels the Council may establish under the provisions of the Agreement. The Commission works in close cooperation with the National Administrative Offices (NAOs), created by each government within their own labor ministry to implement the NAALC. | to achieve the following basic goals: <ol style="list-style-type: none"> 1. Promote respect for the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998). 2. Promote compliance with ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (1999). 3. Advance common commitments on labor rights through cooperation, dialogue and technical exchanges. | strengthening worker organizations and providing training on collective bargaining. |
| (2) Other Efforts in Support of the Bogor Goals: Measures on Environment | <u>(D). Actions to liberalize trade and investment in environmental goods and</u> | <u>(D). Actions to liberalize trade and investment in environmental goods and</u> | <u>(D). Actions to liberalize trade and investment in environmental goods and services</u> |

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| | <p><u>services</u></p> <p>The United States and APEC members took early action to define the sector of environmental goods and services by developing a list of goods according to HS six-digit categories. Members developed this list for the purposes of possible early voluntary sectoral liberalization.</p> | <p><u>services</u></p> <p>The United States and APEC members have endorsed a comprehensive work program on environmental goods, which includes projects aimed at reducing trade barriers to environmental goods and services. In addition, the United States sponsored and spearheaded the APEC Environmental Goods and Services Information Exchange (EGSIE), which will provide a web-based tool for promoting APEC economies' EGS sectors. More broadly, the United States has persistently pushed for multilateral negotiation and liberalization on environmental goods and services. The Trade Promotion Act of 2002 provides specific guidance to U.S. trade negotiators to prioritize agreement to liberalize environmental goods</p> | <p>Currently, the U.S. provides duty free treatment on environmental goods to all FTA partners, with a few small exceptions. By 2015, the U.S. will be completely duty free on all environmental goods with its current FTA partners. Growth in environmental goods trade with countries in which the U.S. has had an FTA in force since 2005 is three times that of environmental trade growth with these same countries during the previous period (2001-2004). Trade in renewable energy technologies with these same FTA partners has grown considerably since 2005, with products such as solar cells, modules and panels growing at 21 percent annually and parts for hydraulic turbines growing at 16 percent annually.</p> |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | <p>and services through negotiations on free trade agreements and multilateral trade agreements. The United States has concluded multiple free trade agreements that provide for early elimination of trade barriers on environmental goods and services.</p> <p>Additionally the United States has led efforts in the WTO Doha negotiations to conclude multilateral agreement on environmental goods and services. For example in the area of goods, the United States submitted a proposal on over 200 HS six-digit tariff categories, drawing from the APEC list, and worked with other delegations to develop a “convergence” list of 156 goods. In 2007 in the run-up to the Bali launch of UN climate negotiations, the United States joined with the European</p> | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | <p>Union to propose liberalization for climate-friendly technologies, as identified by the World Bank in its study on trade and climate change, and a broader environmental goods and services agreement, or “EGSA.”</p> | |
| | | <p><u>(II). Measures to provide for the application and enforcement of environmental laws</u></p> <p>FTAs concluded after the passage of the 2002 Trade Promotion Act contain provisions requiring each Party to effectively enforce its environmental laws</p> <p>The latest FTA to enter into force is the U.S.-Peru FTA on February 1, 2009. It contains commitments by each Party to adopt, maintain, and implement laws, regulations, and all other measures to fulfill its</p> | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
|--|----------------|--|--|
| | | <p>obligations under the multilateral environmental agreements listed in Annex 18.2 of the U.S.-Peru FTA (see www.ustr.gov)</p> | |
| | | <p><u>(III). Measures to provide procedural guarantees/transparency for judicial and related proceedings</u></p> <p>FTAs concluded after the passage of the 2002 Trade Promotion Act contain provisions for procedural guarantees and transparency for judicial and related proceedings.</p> <p>The U.S.-Peru FTA contains obligations regarding the provision of procedural guarantees and transparency for judicial proceedings:</p> <ol style="list-style-type: none"> 1. Appropriate access to judicial, quasi-judicial, or | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | <p>administrative proceedings available under its law to provide sanctions or remedies for violations of its environmental laws.</p> <p>2. Fair, equitable and transparent proceedings.</p> <p>3. Each Party shall provide persons with a legally recognized interest under its law in a particular matter appropriate and effective access to remedies for violations of that Party's environmental laws or for violations of a legal duty under that Party's law relating to the environment or environmental conditions affecting human health</p> | |
| | | <p><u>(IV). Mechanisms to enhance environmental protection</u></p> <p>FTAs concluded after the</p> | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
|--|----------------|---|--|
| | | <p>passage of the 2002 Trade Promotion Act contain mechanisms to enhance environmental performance.</p> <p>The U.S.-Peru FTA encourages the development of mechanisms that can include:</p> <ol style="list-style-type: none"> 1. Voluntary mechanisms to enhance environmental performance 2. Incentives, including market-based incentives where appropriate, to encourage conservation, restoration, sustainable use, and protection of natural resources and the environment, such as public recognition of facilities or enterprises that are superior environmental performers, or programs for exchanging permits or other instruments to help achieve | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | <p>environmental goals.</p> <p>The U.S.-Peru FTA includes commitments for Peru to make significant reforms to improve its forest sector governance – Annex on Forest Sector Governance. The Annex on Forest Sector Governance is the first such comprehensive annex on environmental and conservation issues ever included in a FTA between the United States and an FTA partner.</p> | |
| | | <p><u>(V). Measures to provide for environmental cooperation</u></p> <p>FTAs concluded after the passage of the 2002 Trade Promotion Act contain provisions to encourage environmental cooperation.</p> <p>The U.S.-Peru FTA establishes commitments to expand the</p> | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | cooperative relationship between the Parties on environmental matters, recognizing it will help them achieve shared environmental goals and objectives, including the development and improvement of environmental protection, practices, and technologies. | |
| <p>(3) Measures to Promote E-Commerce</p> <p><i>Note:</i> Some items contained in this section are the same as those listed under measures take to implement TFAP under Section 14 of the Factsheet. As voluntary measures to further promote e-commerce, we have included these measures in this section of the U.S. factsheet.</p> | | <p><u>Electronic Commerce</u></p> <ol style="list-style-type: none"> 1. In addition to Federal agencies' websites, the United States also operates a web-portal (www.usa.gov) to obtain information, conduct business, and access other government services. 2. The United States has been strong supporter in the WTO of the moratorium on e-commerce customs duties. | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | <p>3. E-Commerce FTA chapters now include additional elements to promote e-commerce:</p> <ul style="list-style-type: none"> • Electronic authentication and electronic signatures, including prohibiting the denial of the legal validity of a signature solely on the basis that the signature is in electronic form • Promoting online consumer protection, including cooperation between each Party's national consumer protection enforcement agencies in appropriate cases of mutual concern in the enforcement of laws against fraudulent and deceptive commercial practices in | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
|--|----------------|--|--|
| | | <p>e-commerce.</p> <ul style="list-style-type: none"> • Promoting paperless trading, including efforts to accept trade administration document submitted electronically as the legal equivalent of the paper version of those documents • Promoting transparency by making publishing or otherwise making available its laws, regulations, and other measures of general application that pertain to e-commerce <p>4. The United States continues to be an active participant in the APEC E-Commerce Steering Group and is a member of the APEC Data Privacy</p> | |

| | Status in 1996 | Status in 2009 | Major Achievements incl. Significant Progress after the Mid-term Stocktake and Example of Best Practices |
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| | | <p>Pathfinder initiative.</p> <p>5. Passage of legislation to further enable the e-commerce environment; including, the Digital Millennium Copyright Act (1998), E-Sign Act (2000), and the CAN SPAM Act (2003)</p> <p>6. Participated in the development of the 1999 OECD Guidelines for Consumer Protection in the Context of Electronic Commerce, which the United States strongly supports.</p> | <p>In 2006, the U.S. Congress enacted the U.S. SAFE WEB Act to enhance law enforcement cooperation across borders in matters concerning consumer fraud and deception, including spam, spyware and Internet-based consumer fraud.</p> <p>In 2010, the U.S. Federal Trade Commission (FTC) participated in founding the Global Privacy Enforcement Network (GPEN) to facilitate cross-border cooperation between privacy enforcement authorities around the world, including in enforcement matters.</p> |